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firearms

Department of the Treasury
Bureau of Alcohol, Tobacco and Firearms

ATF P 5300.14 (5-80)

Federal Laws Relating to Firearms and Ammunition

Title 18, United States Code

Editor's Note: Chapter 44 of 18 U.S.C. was amended by Title 1 of P.L. 90-618, The Gun Control Act of 1968, in which "Congress hereby declares that the purpose of this title is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence, and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title."

Chapter 44. Firearms

Section 921. Definitions

(a) As used in this chapter—

(1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(4) The term "destructive device" means—

(A) any explosive, incendiary, or poison gas—

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if

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such weapon as modified has an overall length of less than twenty-six inches.

(7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term "short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term "importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this chapter.

(10) The term "manufacturer" means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this chapter.

(11) The term "dealer" means (A) any person engaged in the business of selling firearms or ammunition at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.

(12) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

(13) The term "collector" means any person who acquires, holds, or disposes of firearms or ammunition as curios or relics, as the Secretary shall by regulation define, and the term "licensed collector" means any such person licensed under the provisions of this chapter.

(14) The term "indictment" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term "antique firearm" means—

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(17) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm.

(18) The term "Secretary" or "Secretary of the Treasury" means the Secretary of the Treasury or his delegate.

(19) The term "published ordinance" means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term "crime punishable by imprisonment for a term exceeding one year" shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

Section 922. Unlawful acts

(a) It shall be unlawful—

(1) For any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm or ammunition to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, or licensed dealer for the sole purpose of repair or customizing;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers,

and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a rifle or shotgun obtained in conformity with the provisions of subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machine-gun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe resides in any State other than that in which the transferor resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity); except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes; and

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.

(2) any firearm or ammunition to any person in any State where the purchase or possession by such person of such firearm or ammunition would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee's business premises, (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes, and (C) shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

(5) any firearm or ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

[Note: See 26 U.S.C. 4182(c), page 12, for exemption under paragraph 5]

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are

Signature _____ Date _____

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Secretary, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

(4) has been adjudicated as a mental defective or has been committed to any mental institution.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter.

(f) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(g) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution; to ship or transport any firearm or ammunition in interstate or foreign commerce.

READEX FICHE

(h) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

(4) who has been adjudicated as a mental defective or who has been committed to any mental institution; to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, or which constitutes, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

Section 923. Licensing

(a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer—

(A) of destructive devices or ammunition for destructive devices, a fee of $1,000 per year;

(B) of firearms other than destructive devices, a fee of $50 per year; or

(C) of ammunition for firearms other than destructive devices, a fee of $10 per year.

(2) If the applicant is an importer—

(A) of destructive devices or ammunition for destructive devices, a fee of $1,000 per year; or (B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of $50 per year.

(3) If the applicant is a dealer—

(A) in destructive devices or ammunition for destructive devices, a fee of $1,000 per year;

(B) who is a pawnbroker dealing in firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of $25 per year; or

(C) who is not a dealer in destructive devices or a pawnbroker, a fee of $10 per year.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. The fee for such license shall be $10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922 (g) and (h) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application; and

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from

which he intends to conduct such collecting within a reasonable period of time.

(2) The Secretary must approve or deny an application for a license within the forty-five-day period beginning on the date it is received. If the Secretary fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Secretary to act. If the Secretary approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

(e) The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

(f)(1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

(2) If the Secretary denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or revoke a license, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to revoke the license, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.

(g) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

[Note: See 26 U.S.C. 4182(c), page 12, for exemption under paragraph g]

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify, by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

(j) This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.

Section 924. Penalties

(a) Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than $10,000, or imprisoned not more than ten years, or both.

(c) Whoever—

(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

(2) carries a firearm unlawfully during the commission of any felony for which he may be prosecuted in a

court of the United States, shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years and, notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a second or subsequent conviction of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony.

(d) Any firearm or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

Section 925. Exceptions: Relief from disabilities

(a)(1) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

(4) When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

(5) For the purpose of paragraphs (3) and (4) of this subsection, the term "United States" means each of the several States and the District of Columbia.

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term or the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

(c) A person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act) may make application to the Secretary for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of such conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter by reason of such a conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

(d) The Secretary may authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that the firearm or ammunition—

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

(2) is an unserviceable firearm, other than a machine gun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms; or

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Secretary may permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

Section 926. Rules and regulations

The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including—

(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license; and

(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection.

The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

Section 927. Effect on State law

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

Section 928. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Editor's Note: Administration and enforcement: Title 1, Sec. 103 of P.L. 90-618: "The administration and enforcement of the amendment made by this title shall be vested in the Secretary of the Treasury."

Effect: Title 1, Sec. 104 of P.L. 90-618: "Nothing in this title or the amendment made thereby shall be construed as modifying or affecting any provision of—(a) The National Firearms Act (chapter 53 of the Internal Revenue Code of 1954); (b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or (c) section 1715 of title 18, United States Code, relating to nonmailable firearms."

Title 18, United States Code—Appendix

Unlawful Possession or Receipt of Firearms

Section 1201. Congressional findings and declaration

The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons, veterans who are discharged under dishonorable conditions, mental incompetents, aliens who are illegally in the country, and former citizens who have renounced their citizenship, constitutes—

(1) a burden on commerce or threat affecting the free flow of commerce,

(2) a threat to the safety of the President of the United States and Vice President of the United States,

(3) an impediment or a threat to the exercise of free speech and the free exercise of a religion guaranteed by the first amendment to the Constitution of the United States, and

(4) a threat to the continued and effective operation of the Government of the United States and of the government of each State guaranteed by article IV of the Constitution.

Section 1202. Receipt, possession, or transportation of firearms—Persons liable; penalties for violations

(a) Any person who—

(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

(2) has been discharged from the Armed Forces under dishonorable conditions, or

(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

(4) having been a citizen of the United States has renounced his citizenship, or

(5) being an alien is illegally or unlawfully in the United States, and who receives, possesses, or transports in commerce or affecting commerce, after the date of enactment of this Act, any firearm shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

(b) Any individual who to his knowledge and while being employed by any person who—

(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

(2) has been discharged from the Armed Forces under dishonorable conditions, or

(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

(4) having been a citizen of the United States has renounced his citizenship, or

(5) being an alien is illegally or unlawfully in the United States, and who, in the course of such employment, receives, possesses, or transports in commerce or affecting commerce, after the date of the enactment of this Act, any firearm shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

(c) As used in this title—

(1) "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country;

(2) "felony" means any offense punishable by imprisonment for a term exceeding one year, but does not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less;

(3) "firearm" means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device. Such term shall include any handgun, rifle, or shotgun;

(4) "destructive device" means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will or is designed to or may readily be converted to expel a projectile by the action of any explosive and having any barrel with a bore of one-half inch or more in diameter;

(5) "handgun" means any pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or capable of firing fixed cartridge ammunition, or any other firearm originally designed to be fired by the use of a single hand;

(6) "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger;

(7) "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Section 1203. Exemptions

This title shall not apply to—

(1) any prisoner who by reason of duties connected with law enforcement has expressly been entrusted with a firearm by competent authority of the prison; and

(2) any person who has been pardoned by the President of the United States or the chief executive of a State and has expressly been authorized by the President or such chief executive, as the case may be, to receive, possess, or transport in commerce a firearm.

Editor's Note: Sections 1201, 1202, and 1203 above represent Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title III of P.L. 90-618, The Gun Control Act of 1968.

Title 18, United States Code

Chapter 83—Postal Service

Section 1715. Firearms as nonmailable; regulations: Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such articles may be conveyed in the mails, under such regulations as the Postal Service shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Organized Reserve Corps; to officers of the National Guard or Militia of a State, Territory, or District; to officers of the United States or of a State, Territory, or District whose official duty is to serve warrants of arrest or commitments; to employees of the Postal Service; to officers and employees of enforcement agencies of the United States; and to watchmen engaged in guarding the property of the United States, a State, Territory, or District. Such articles also may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postal Service shall prescribe. Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared nonmailable by this section, shall be fined not more than $1,000 or imprisoned not more than two years, or both.

Title 26, United States Code

Chapter 32—Manufacturers Excise Taxes

Subchapter D. Recreational Equipment

Part III-Firearms

Section 4181. Imposition of tax

There is hereby imposed upon the sale by the manufacturer, producer, or importer of the following articles a tax equivalent to the specified percent of the price for which so sold:

Articles taxable at 10 percent—
Pistols.
Revolvers.
Articles taxable at 11 percent—
Firearms (other than pistols and revolvers)
Shells, and cartridges.

Section 4182. Exemptions

(a) **Machine guns and short barrelled firearms.**—The tax imposed by section 4181 shall not apply to any firearm on which the tax provided by section 5811 has been paid.

(b) **Sales to Defense Department.**—No firearms, pistols, revolvers, shells, and cartridges purchased with funds appropriated for the military department shall be subject to any tax imposed on the sale or transfer of such articles.

(c) **Records.**—Notwithstanding the provisions of sections 922(b)(5) and 923(g) of title 18, United States Code, no person holding a Federal license under chapter 44 of title 18, United States Code, shall be required to record the name, address, or other information about the purchaser of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts for the aforesaid types of ammunition.

Chapter 53—Machine Guns, Destructive Devices, and Certain Other Firearms

Editor's Note: Amended by Title II of P.L. 90-618, The Gun Control Act of 1968.

Subchapter A—Taxes

Part I—Special (Occupational) Taxes

Section 5801. Tax

On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

(1) **Importers.**—$500 a year or fraction thereof;

(2) **Manufacturers.**—$500 a year or fraction thereof;

(3) **Dealers.**—$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as "any other weapon" under section 5845(e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, $25 a year or fraction thereof; manufacturers, $25 a year or fraction thereof; dealers, $10 a year or fraction thereof.

Section 5802. Registration of importers, manufacturers, and dealers

On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business. Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary of the application.

Part II—Tax on Transferring Firearms

Section 5811. Transfer tax

(a) **Rate.**—There shall be levied, collected, and paid on firearms transferred a tax at the rate of $200 for each firearm transferred, except, the transfer tax on any firearm classified as "any other weapon" under section 5845(e) shall be at the rate of $5 for each such firearm transferred.

(b) **By whom paid.**—The tax imposed by subsection (a) of this section shall be paid by the transferor.

(c) **Payment.**—The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary.

Section 5812. Transfers

(a) **Application.**—A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; (5) the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; and (6) the application form shows that the Secretary has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

(b) **Transfer of possession.**—The transferee of a firearm shall not take possession of the firearm unless the Secretary has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section.

Part III—Tax on Making Firearms

Section 5821. Making tax

(a) **Rate.**—There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of $200 for each firearm made.

(b) **By whom paid.**—The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

(c) **Payment.**—The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary.

Section 5822. Making

No person shall make a firearm unless he has (a) filed with the Secretary a written application, in duplicate, to make and register the firearm on the form prescribed by the Secretary; (b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form; (c) identified the firearm to be made in the application form in such manner as the Secretary may by regulations prescribe; (d) identified himself in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and (e) obtained the approval of the Secretary to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

Subchapter B—General Provisions and Exemptions

Part I—General Provisions

Section 5841. Registration of firearms

(a) **Central registry.**—The Secretary shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

(1) identification of the firearm;

(2) date of registration; and

(3) identification and address of person entitled to possession of the firearm.

(b) **By whom registered.**—Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

(c) **How registered.**—Each manufacturer shall notify the Secretary of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

(d) **Firearms registered on effective date of this act.**—A person shown as possessing a firearm by the records maintained by the Secretary pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968 shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

(e) **Proof of registration.**—A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary upon request.

Section 5842. Identification of firearms

(a) **Identification of firearms other than destructive devices.**—Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary may by regulations prescribe.

(b) **Firearms without serial number.**—Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary and any other information the Secretary may by regulations prescribe.

(c) **Identification of destructive device.**—Any firearm classified as a destructive device shall be identified in such manner as the Secretary may by regulations prescribe.

Section 5843. Records and returns

Importers, manufacturers, and dealers shall keep such records of, and render such returns in relation to, the importation, manufacture, making, receipt, and sale, or other disposition, of firearms as the Secretary may by regulations prescribe.

Section 5844. Importation

No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary, that the firearm to be imported or brought in is—

(1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

(2) being imported or brought in for scientific or research purposes; or

(3) being imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer; except that, the Secretary may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm.

Section 5845. Definitions

For the purpose of this chapter—

(a) **Firearm.**—The term "firearm" means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such

weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (8) a destructive device. The term "firearm" shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(b) **Machinegun.**—The term "machinegun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

(c) **Rifle.**—The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(d) **Shotgun.**—The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(e) **Any other weapon.**—The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(f) **Destructive device.**—The term "destructive device" means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellent charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(g) **Antique firearm.**—The term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(h) **Unserviceable firearm.**—The term "unserviceable firearm" means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(i) **Make.**—The term "make", and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

(j) **Transfer.**—The term "transfer" and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

(k) **Dealer.**—The term "dealer" means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

(l) **Importer.**—The term "importer" means any person who is engaged in the business of importing or bringing firearms into the United States.

(m) **Manufacturer.**—The term "manufacturer" means any person who is engaged in the business of manufacturing firearms.

Section 5846. Other laws applicable

All provisions of law relating to special taxes imposed by chapter 51 and to engraving, issuance, sale, accountability, cancellation, and distribution of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821.

Section 5847. Effect on other laws

Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war.

Section 5848. Restrictive use of information

(a) **General rule.**—No information or evidence obtained from an application, registration, or records required to be submitted or retained by a natural person in order to comply with any provision of this chapter or regulations issued thereunder, shall, except as provided in subsection (b) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

(b) **Furnishing false information.**—Subsection (a) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

Section 5849. Citation of chapter

This chapter may be cited as the "National Firearms Act" and any reference in any other provision of law to the "National Firearms Act" shall be held to refer to the provisions of this chapter.

Section 5851. Special (occupational) tax exemption

(a) **Business with United States.**—Any person required to pay special (occupational) tax under section 5801 shall be relieved from payment of that tax if he establishes to the satisfaction of the Secretary or his delegate that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary may relieve any person manufacturing firearms for, or on behalf of, the United States from compliance with any provision of this chapter in the conduct of such business.

(b) **Application.**—The exemption provided for in subsection (a) of this section may be obtained by filing with the Secretary an application on such form and containing such information as may by regulations be prescribed. The exemptions must thereafter be renewed on or before July 1 of each year. Approval of the application by the Secretary shall entitle the applicant to the exemptions stated on the approved application.

Section 5852. General transfer and making tax exemption

(a) **Transfer.**—Any firearm may be transferred to the United States or any department, independent establishment, or agency thereof, without payment of the transfer tax imposed by section 5811.

(b) **Making by a person other than a qualified manufacturer.**—Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

(c) **Making by a qualified manufacturer.**—A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

(d) **Transfers between special (occupational) taxpayers.**—A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

(e) **Unserviceable firearm.**—An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary may by regulations prescribe.

(f) **Right to exemption.**—No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

Section 5853. Transfer and making tax exemption available to certain governmental entities.

(a) **Transfer.**—A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(b) **Making.**—A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(c) **Right to exemption.**—No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

Section 5854. Exportation of firearms exempt from transfer tax

A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary may by regulations prescribe.

Subchapter C—Prohibited Acts

Section 5861. Prohibited acts

It shall be unlawful for any person—

(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

(e) to transfer a firearm in violation of the provisions of this chapter; or

(f) to make a firearm in violation of the provisions of this chapter; or

(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

Subchapter D—Penalties and Forfeitures

Section 5871. Penalties

Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than $10,000, or be imprisoned not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.

Section 5872. Forfeitures

(a) **Laws applicable.**—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

(b) **Disposal.**—In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it.

Chapter 69—General Provisions Relating to Stamps

Section 6806. Occupational tax stamps

Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax (other than a special tax under subchapter B of chapter 35, under subchapter B of chapter 36, or under subtitle E) shall place and keep conspicuously in his establishment or place of business all stamps denoting payment of such special tax.

Editor's Note: Amended by Title 11, Sec. 204 of P.L. 90-618, The Gun Control Act of 1968.

Chapter 75—Crimes, Other Offenses, and Forfeitures

Subchapter B—Other Offenses

Section 7273. Penalties for offenses relating to special taxes

Any person who shall fail to place and keep stamps denoting the payment of the special tax as provided in section 6806 shall be liable to a penalty (not less than $10) equal to the special tax for which his business rendered him liable, unless such failure is shown to be due to reasonable cause. If such failure to comply with section 6806 is through willful neglect or refusal, then the penalty shall be double the amount above prescribed.

Editor's Note: Amended by Title 11, Sec. 205 of P.L. 90-618, The Gun Control Act of 1968.

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27 CFR Part 178

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AUTHORITY: 82 Stat. 1213-1226, 18 U.S.C. 921-928, 82 Stat. 236, as amended, unless otherwise noted.

SOURCE: 33 FR 18555, Dec. 14, 1968; 33 FR 18699, Dec. 18, 1968, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

NOTE: For nomenclature changes to Part 178, see T.D. ATF-48, 43 FR 13531, Mar. 31, 1978.

Subpart A—Introduction

§ 178.1 Scope of regulations.

(a) *In general.* The regulations contained in this part relate to commerce in firearms and ammunition and are promulgated to implement Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213), and Title VII, Unlawful Possession or Receipt of Firearms (82 Stat. 236; 18 U.S.C. Appendix) of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197) as amended by Title III of the Gun Control Act of 1968 (82 Stat. 1236).

(b) *Procedural and substantive requirements.* This part contains the procedural and substantive requirements relative to:

(1) The interstate or foreign commerce in firearms and ammunition;

(2) The licensing of manufacturers, importers, and collectors of, and dealers in, firearms and ammunition;

(3) The conduct of business or activity by licensees;

(4) The importation of firearms and ammunition;

(5) The records and reports required of licensees;

(6) Relief from disabilities under this part; and

(7) Exempt interstate and foreign commerce in firearms and ammunition.

(c) *Federal Firearms Act licenses.* This part fully applies to operations by persons licensed under the Federal Firearms Act and Part 177 of this chapter who are continuing their operations under such license pursuant to section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235). Any reference in this part to "license," "licensee," "licensed dealer," "licensed importer," "licensed manufacturer," etc., shall apply equally as the case may be to licenses and persons licensed under the Federal Firearms Act who are continuing operations pursuant to a license issued under that Act.

§ 178.2 Relation to other provisions of law.

The provisions in this part are in addition to, and are not in lieu of, any other provision of law, or regulations, respecting commerce in firearms or ammunition. For regulations applicable to traffic in machine guns, destructive devices, and certain other firearms, see Part 179 of this chapter. For statutes applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), and regulations thereunder. For statutes applicable to nonmailable firearms, see 18 U.S.C. 1715 and regulations thereunder.

Subpart B—Definitions

§ 173.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Act. Chapter 44 of Title 18 of the United States Code.

Ammunition. Ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm other than an antique firearm. The term shall not include (a) any shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing, nor (b) any unloaded, non-metallic shotgun hull or casing not having a primer.

Antique firearm. (a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) any replica of any firearm described in paragraph (a) of this definition if such replica (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

Business premises. The property on which firearms or ammunition importing, manufacturing or dealing business is or will be conducted. A private dwelling, no part of which is open to the public, shall not be recognized as coming within the meaning of the term.

Collection premises. The premises described on the license of a collector as the location at which he maintains his collection of curios and relics.

Collector. Any person who acquires, holds, or disposes of firearms or ammunition as curios or relics.

Commerce. Travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

Crime punishable by imprisonment for a term exceeding 1 year. Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulations of business practices excluded from the meaning of the term under provisions contained in this part, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

Curios or relics. Firearms or ammunition which are of special interest to collectors by reason of some quality other than is ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms and ammunition must fall within one of the following categories:

(a) Firearms and ammunition which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms and ammunition which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms or ammunition which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm or item of ammunition under this category may be established by evidence of present value and evidence that like firearms or ammunition are not available except as collector's items, or that the value of like firearms or ammunition available in ordinary commercial channels is substantially less.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Dealer. Any person engaged in the business of selling firearms or ammunition at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker.

Destructive device. (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) device similar to any of the devices described in the preceding paragraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signalling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of Title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

Director. The Director, Bureau of Alcohol, Tobacco, and Firearms, the

Department of the Treasury, Washington, D.C.

Discharged under dishonorable conditions. Separation from the U.S. Armed Forces resulting from a Dishonorable Discharge.

District Director. A District Director of Internal Revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Federal Firearms Act. Chapter 18 of Title 15, United States Code, as in effect on December 15, 1968.

Felony. Any offense punishable by imprisonment for a term exceeding 1 year. The term shall not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of 2 years or less.

Firearm. Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device; but the term shall not include an antique firearm. In the case of a licensed collector, the term shall mean only curios and relics.

Firearm frame or receiver. That part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Fugitive from justice. Any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

Importation. The bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.

Importer. Any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution.

Indictment. Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

Internal Revenue Code of 1954. Title 26, United States Code.

Internal revenue district. An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

Interstate or foreign commerce. Includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia. The term shall not include commerce between places within the same State but through any place outside of that State.

Licensed collector. A collector of curios and relics only and licensed under the provisions of this part.

Licensed dealer. A dea'er licensed under the provisions of this part, and a dealer licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

Licensed importer. An importer licensed under the provisions of this part, and a manufacturer (as that term was defined in the Federal Firearms Act) licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

Licensed manufacturer. A manufacturer licensed under the provisions of this part, and a manufacturer (as that term was defined in the Federal Firearms Act) licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

Machine gun. Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination or parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

Manufacturer. Any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution.

National Firearms Act. Chapter 53 of the Internal Revenue Code of 1954.

Pawnbroker. Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Pistol. A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

Published ordinance. A published law of any political subdivisions of a State which the Director determines to be relevant to the enforcement of this part and which is contained on a list compiled by the Director, which list is published in the FEDERAL REGISTER, revised annually, and furnished to each licensee under this part.

Region. A Bureau of Alcohol, Tobacco, and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Revolver. A small projectile weapon, of the pistol type, having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

Rifle. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Short-barreled rifle. A rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

Short-barreled shotgun. A shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches.

Shotgun. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explo-

sive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

State. A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence. The State in which an individual regularly resides, or maintains his home, or if such person is on active duty as a member of the United States Armed Forces, the State in which his permanent duty station is located: *Provided,* That an alien who is legally in the United States shall be considered to be a resident of the State in which (a) he is residing and has so resided for a period of at least 90 days prior to the date of sale or delivery of a firearm or ammunition, or (b) his embassy or consulate is located if the principal officer of such embassy or consulate issues a written statement to such alien authorizing his acquisition of a firearm or ammunition. Temporary sojourn in a State does not make the State of temporary sojourn the State of residence.

Example 1. A maintains his home in State X. He travels to State Y on a hunting, fishing, business or other type of trip. He does not become a resident of State Y by reason of such trip.

Example 2. A maintains a home in State X and a home in State Y. He resides in State X except for the summer months of the year and in State Y for the summer months of the year. During the time that he actually resides in State X he is a resident of State X, and during the time that he actually resides in State Y he is a resident of State Y.

Unserviceable firearm. A firearm which is incapable of discharging a shot by means of an explosive and is incapable of being readily restored to a firing condition.

U.S.C. The United States Code.

(26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 959), and Sec. 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744))

[T.D. ATF-48, 43 FR 13536, Mar. 31 1978]

Subpart C—Administrative and Miscellaneous Provisions

§ 178.21 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

§ 178.22 Emergency variations from requirements.

(a) The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations from the specific requirements (1) are necessary, (2) will not hinder the effective administration of this part, and (3) will not be contrary to any provisions of law.

(b) Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations, and the licensee thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the Director the effective administration of this part is hindered by the continuation of such variation. A licensee who desires to employ such variation shall submit a written application so to do, in triplicate, to the Regional regulatory administrator for transmittal to the Director. The application shall describe the proposed variation and set forth the reasons therefor. A variation shall not be employed until the application has been approved. The licensee shall retain, as part of his records, available for examination by ATF officers, any application approved by the Director under the provisions of this section.

§ 178.23 Right of entry and examination.

Any ATF officer may enter during business hours the premises, including places of storage, of any licensed importer, licensed manufacturer, licensed dealer, or licensed collector for the purpose of inspecting or examining any records or documents required to be kept by such importer, manufacturer, dealer, or collector under this part, and any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises.

§ 178.24 Published ordinances.

The Director is authorized to compile, publish in the FEDERAL REGISTER, annually revise, and furnish to each licensee, a list of published ordinances which are relevant to the enforcement of this part.

§ 178.25 Disclosure of information.

Upon receipt of written request of any State or any political subdivision thereof, the Regional regulatory administrator may make available to such State or any political subdivision thereof, any information which the Regional regulatory administrator may obtain by reason of the provisions of the Act with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

§ 178.26 Curio and relic determination.

A licensed collector who desires to obtain a determination whether a particular firearm or ammunition is a curio or relic shall submit a written request, in duplicate, for a ruling thereon to the Regional regulatory administrator. Each such request shall be executed under the penalties of perjury and shall contain a complete and accurate description of the firearm or ammunition, and such photographs, diagrams, or drawings as may be necessary to enable the Regional regulatory administrator to make his determination. The Regional regulatory administrator may require the submission to him, or to an officer designated by him, of the firearm or ammunition for examination and evaluation. If the submission of the firearm or ammunition is impractical, the licensed collector shall so advise the Regional regulatory administrator and designate the place where the firearm or ammunition will be available for examination and evaluation.

§ 178.27 Destructive device determination.

The Director shall determine in accordance with 18 U.S.C. 921(a)(4) whether a device is excluded from the definition of a destructive device. A person who desires to obtain a determination under that provision of law for any device which he believes is not likely to be used as a weapon shall submit a written request, in triplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer thereof, the purpose of and use for which it is intended, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require the submission to

him, of a sample of such device for examination and evaluation. If the submission of such device is impracticable, the person requesting the ruling shall so advise the Director and designate the place where the device will be available for examination and evaluation.

§ 178.28 Transportation of destructive devices and certain firearms.

(a) The Regional regulatory administrator for the internal revenue region in which a person resides may authorize that person to transport in interstate or foreign commerce any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle, if he finds that such transportation is reasonably necessary and is consistent with public safety and applicable State and local law. A person who desires to transport in interstate or foreign commerce any such device or weapon shall submit a written request so to do, in duplicate, to the Regional regulatory administrator. The request shall contain:

(1) A complete description and identification of the device or weapon to be transported;

(2) A statement whether such transportation involves a transfer of title;

(3) The need for such transportation;

(4) The approximate date such transportation is to take place;

(5) The present location of such device or weapon and the place to which it is to be transported;

(6) The mode of transportation to be used (including, if by common or contract carrier, the name and address of such carrier); and

(7) Evidence that the transportation or possession of such device or weapon is not inconsistent with the laws at the place of destination.

(b) No person shall transport any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle in interstate or foreign commerce under the provisions of this section until he has received specific authorization so to do from the Regional regulatory administrator. Authorization granted under this section does not carry or import relief from any other statutory or regulatory provision relating to firearms.

(c) This section shall not be construed as requiring licensees to obtain authorization to transport destructive devices, machine guns, short-barreled shotguns, and short-barreled rifles in interstate or foreign commerce: *Provided*, That in the case of a licensed importer, licensed manufacturer, or licensed dealer, such a licensee is qualified under the National Firearms Act (see also Part 179 of this chapter) and this part to engage in the business with respect to the device or weapon to be transported, and that in the case of a licensed collector, the device or weapon to be transported is a curio or relic.

§ 178.29 Out-of-State acquisition of firearms by nonlicensees.

No person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, shall transport into or receive in the State where he resides (or if a corporation or other business entity, where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State: *Provided*, That the provisions of this section (a) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (b) shall not apply to the transportation or receipt of a rifle or shotgun obtained in conformity with the provisions of §§ 178.30, 178.96, and 178.97, and (c) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of the Act.

§ 178.30 Out-of-State disposition of firearms by nonlicensees.

No nonlicensee shall transfer, sell, trade, give, transport, or deliver any firearm to any other nonlicensee, who the transferor knows or has reasonable cause to believe resides in any State other than that in which the transferor resides (or if a corporation or other business entity, where it maintains a place of business): *Provided*, That the provisions of this section shall not apply to (a) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or any acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (b) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes.

§ 178.31 Delivery by common or contract carrier.

(a) No person shall knowingly deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped: *Provided*, That any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of that trip without violating any provision of this part.

(b) No common or contract carrier shall transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of any provision of this part: *Provided, however*, That the provisions of this paragraph shall not apply in respect to the transportation of firearms or ammunition in in-bond shipment under Customs laws and regulations.

§ 178.32 Prohibited shipment, transportation, or receipt of firearms and ammunition by certain persons.

(a) No person may ship or transport any firearm or ammunition in interstate or foreign commerce, or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, who (1) is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act), or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954), or (4) has been adjudicated as a mental defective or who has been committed to a mental institution.

(b) A firearm may not be received, possessed, or transported in commerce or affecting commerce by any person who (1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, (2) has been discharged from the Armed Forces under dishonorable conditions, (3) has been adjudged by a court of the United States or of a State or any political subdivision

thereof of being mentally incompetent, or (4) having been a citizen of the United States has renounced his citizenship, or (5) being an alien is illegally in the United States.

(c) Any individual who to his knowledge and while being employed by any person coming within a classification contained in paragraph (b) of this section, may not in the course of such employment receive, possess, or transport a firearm in commerce or affecting commerce.

(d) The provisions of paragraph (b) of this section shall not apply to any prisoner who by reason of duties connected with law enforcement has expressly been entrusted with a firearm by competent authority of the prison, and the provisions of paragraphs (b) and (c) of this section shall not apply to any person, or any employee employed by such person, who has been pardoned by the President of the United States or the chief executive of a State and has expressly been authorized by the President or such chief executive, as the case may be, to receive, possess, or transport in commerce a firearm.

§ 178.33 Stolen firearms and ammunition.

No person shall transport or ship in interstate or foreign commerce any stolen firearm or stolen ammunition knowing or having reasonable cause to believe that the firearm or ammunition was stolen, and no person shall receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition which is moving as, which is a part of, or which constitutes interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

§ 178.34 Removed, obliterated, or altered serial number.

No person shall knowingly transport, ship, or receive in interstate or foreign commerce any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered.

§ 178.35 Skeet, trap, target, and similar shooting activities.

Licensing and recordkeeping requirements, including permissible alternate records, for skeet, trap, target, and similar organized activities shall be determined by the Regional regulatory administrator on a case by case basis.

Subpart D—Licenses

§ 178.41 General.

(a) Each person intending to engage in business as an importer or manufacturer of, or a dealer in, firearms or ammunition shall, before commencing such business, obtain the license required by this subpart for the business to be operated. Each person who desires to obtain the privileges granted by the Act and this part to a licensed collector may obtain such a license under the provisions of this subpart.

(b) Each person intending to engage in business as a firearms or ammunition importer, manufacturer, or dealer shall file an application, with the required fee (see § 178.42), with the District Director for the internal revenue district in which his premises are to be located, and, pursuant to § 178.47, receive the license required for such business from the Regional regulatory administrator. A separate license must be obtained for each business and each place at which the applicant is to do business. Such license shall, subject to the provisions of the Act and other applicable provisions of law, entitle the license to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce, and to engage in the business specified by the license, at the location described on the license, and for the period stated on the license: *Provided*, That it shall not be necessary for a licensed importer or a licensed manufacturer to also obtain a dealer's license in order to engage in business on his licensed premises as a dealer in the same type of firearms or ammunition authorized by his license to be imported or manufactured: *Provided further*, That the payment of the license fee as an importer or manufacturer of, or a dealer in, destructive devices and ammunition for destructive devices includes the privilege of importing, manufacturing or dealing in, as the case may be, firearms other than destructive devices and ammunition for other than destructive devices by such a licensee at his licensed premises.

(c) Each person seeking the privileges of a collector licensed under this part shall file an application, with the required fee (see § 178.42), with the District Director for the internal revenue district in which his collection premises are to be located, and, pursuant to § 178.47, receive from the Regional regulatory administrator the license covering the collection of curios and relics. A separate license may be obtained for each collection premises, and such license shall, subject to the provisions of the Act and other applicable provisions of law, entitle the licensee to transport, ship, receive, and acquire curios and relics in interstate or foreign commerce, and to make disposition of curios and relics in interstate or foreign commerce, to any other person licensed under the provisions of this part, for the period stated on the license.

(d) The collector license provided by this part shall apply only to transactions related to a collector's activity in acquiring, holding or disposing of curios and relics. A collector's license does not authorize the collector to engage in a business required to be licensed under the Act or this part. Therefore, if the acquisitions and dispositions of curios and relics by a collector bring the collector within the definition of a manufacturer, importer, or dealer under this part, he shall qualify as such. (See also § 178.93 of this part.)

§ 178.42 License fees.

Each applicant shall pay a fee for obtaining a license, a separate fee being required for each business or collecting activity at each place of such business or activity, as follows:

(a) For a manufacturer:

(1) Of destructive devices or ammunition for destructive devices—$1,000 per year.

(2) Of firearms other than destructive devices—$50 per year.

(3) Of ammunition for firearms other than destructive devices—$10 per year.

(b) For an importer:

(1) Of destructive devices or ammunition for destructive devices—$1,000 per year.

(2) Of firearms other than destructive devices or ammunition for firearms other than destructive devices—$50 per year.

(c) For a dealer:

(1) In destructive devices or ammunition for destructive devices—$1,000 per year.

(2) Who is a pawnbroker dealing in firearms other than destructive devices or ammunition for firearms other than destructive devices—$25 per year.

(3) Who is not a dealer in destructive devices or a pawnbroker—$10 per year.

(d) For a collector of curios and relics—$10 per year.

§ 178.43 License fee not refundable.

No refund of any part of the amount paid as a license fee shall be made where the operations of the license are, for any reason, discontinued during the period of an issued license. However, the license fee submitted with an application for a license shall be refunded if that application is denied.

§ 178.44 Original license.

(a) Any person who intends to engage in business as a firearms or ammunition importer, manufacturer, or dealer on or after the effective date of this part, or who has not previously been licensed under the provisions of this part to so engage in business, or who has not timely submitted application for renewal of his previous license issued under this part, shall, except as provided in paragraph (c) of this section, file with the District Director for the internal revenue district in which the applicant is to do business an application, Form 7 (Firearms), in duplicate. The application, Form 7 (Firearms), shall include information as to the ownership of the business, the type of firearms or ammunition to be dealt in, the type of business premises, the business hours, the business history, and the identity of the responsible persons in the business. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by the appropriate fee in the form of (1) cash, or (2) money order or check made payable to the Internal Revenue Service. Forms 7 (Firearms), may be obtained from any Regional regulatory administrator or from any District Director.

(b) Any person who desires to obtain the privileges granted to a licensed collector under the Act and this part on or after the effective date of this part, or who has not timely submitted application for renewal of his previous license issued under this part, shall file with the District Director for the internal revenue district in which the applicant is to maintain his collection premises an application, Form 7 (Firearms), in duplicate. The application, Form 7 (Firearms), shall include information as to the ownership of the activity, the type of premises to be maintained by the applicant for the activity, and the identity of the responsible persons in the activity. The application must be executed under the penalties of perjury and the penalties imposed by 18 U.S.C. 924. The application shall be accompanied by a $10 fee in the form of (1) cash, or (2) money order or check made payable to the Internal Revenue Service. Forms 7 (Firearms) may be obtained from any Regional regulatory administrator or from any District Director.

(c) Any person holding a valid license issued pursuant to the provisions of the Federal Firearms Act to manufacture, import or deal in firearms or ammunition for pistols or revolvers may continue to conduct such business under such license until that license expires according to its terms, unless that license be sooner terminated pursuant to applicable provisions of law. If the holder of a license issued pursuant to the Federal Firearms Act intends to continue his firearms or ammunition business following the expiration of such license, he shall comply with the provisions contained in paragraph (a) of this section prior to the expiration of the period covered by the license, and upon compliance with those provisions such an applicant may continue such operations as were authorized by his expired license under this part until his application is finally acted upon.

§ 178.45 Renewal of license.

If a licensee intends to continue the business or activity described on a license issued under this part during any portion of the ensuing year, he shall, unless otherwise notified in writing by the Regional regulatory administrator, execute and file prior to the expiration of his license an application for license renewal, Form 8 (Firearms) (Part 3), accompanied by the required fee, with the District Director for the internal revenue district in which the business or activity is operated. The Regional regulatory administrator may, in writing, require an applicant for license renewal to also file completed Form 7 (Firearms) in the manner required by § 178.44. In the event the licensee does not timely file a Form 8 (Firearms) (Part 3), he must file a Form 7 (Firearms) as required by § 178.44, and obtain the required license before continuing business or collecting activity. If a Form 8 (Firearms) (Part 3) is not timely received through the mails, the licensee should so notify his Regional regulatory administrator.

§ 178.46 Procedure by District Director.

Upon receipt of an application for an original license on Form 7 (Firearms) or an application for renewal of a license on Form 8 (Firearms) (Part 3) or a required Form 7 (Firearms), the District Director shall deposit the fee accompanying the license application and forward the application to the Regional regulatory administrator. Where an application is filed with an insufficient fee, the application and any fee submitted shall be returned.

§ 178.47 Issuance of license.

(a) Upon receipt of a properly executed application for a license on Form 7 (Firearms), or Form 8 (Firearms) (Part 3), the Regional regulatory administrator may, upon finding through further inquiry or investigation, or otherwise, that the applicant is entitled thereto, issue the appropriate license and a copy thereof. Each license shall bear a serial number and such number may be assigned to the licensee to whom issued for so long as he maintains continuity of annual renewal in the same internal revenue district.

(b) The Regional regulatory administrator shall approve a properly executed application for license on Form 7 (Firearms), or Form 8 (Firearms) (Part 3), if:

(1) The applicant is 21 years of age or over;

(2) The applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under the provisions of the Act;

(3) The applicant has not willfully violated any of the provisions of the Act or this part;

(4) The applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(5) The applicant has in a State (i) premises from which he conducts business subject to license under the Act or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under the Act or from which he intends to conduct such collecting within a reasonable period of time; and

(6) The applicant is not prohibited by the provisions of Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix) from receiving, possessing or transporting firearms in commerce or affecting commerce, if the application is for a license relating to firearms.

(c) The Regional regulatory administrator shall approve or deny an application for license within the 45-day period beginning on the date the application was received by the District Director: *Provided*, That when an applicant for license renewal is a person who is, pursuant to the provisions of § 178.82, § 178.143, or § 178.144, conducting business or collecting activity under a previously issued license, action regarding the application will be held in abeyance pending the completion of the proceedings against the applicant's existing license or license

application, final determination of the applicant's criminal case, or final action by the Director on an application for relief submitted pursuant to § 178.144, as the case may be.

(d) When the Regional regulatory administrator fails to act on an application for license within the 45-day period prescribed by paragraph (c) of this section, the applicant may file an action under section 1361 of title 28, United States Code, to compel the Regional regulatory administrator to act.

§ 178.48 Correction of error on license.

(a) Upon receipt of a license issued under the provisions of this part, each licensee shall examine same to ensure that the information contained thereon is accurate. If the license is incorrect, the licensee shall return the license to the Regional regulatory administrator with a statement showing the nature of the error. The Regional regulatory administrator shall correct the error, if the error was made in his office, and return the license. However, if the error resulted from information contained in the licensee's application for the license, the Regional regulatory administrator shall require the licensee to file an amended application setting forth the correct information and a statement explaining the error contained in the application. Upon receipt of the amended application and a satisfactory explanation of the error, the Regional regulatory administrator shall make the correction on the license and return same to the licensee.

(b) When the Regional regulatory administrator finds through any means other than notice from the licensee that an incorrect license has been issued, the Regional regulatory administrator may require the holder of the incorrect license to (1) return the license for correction, and (2) if the error resulted from information contained in the licensee's application for the license, the Regional regulatory administrator shall require the licensee to file an amended application setting forth the correct information, and a statement explaining the error contained in the application. The Regional regulatory administrator then shall make the correction on the license and return same to the licensee.

§ 178.49 Duration of license.

A license shall not be issued for a period of less than 1 year. The license shall entitle the person to whom issued to engage in the business or activity specified on the license, within the limitations of the Act and the regulations contained in this part, for the period stated on the license, unless sooner terminated.

§ 178.50 Locations covered by license.

The license covers the class of business or the activity specified in the license at the address described therein. Accordingly, a separate license must be obtained for each location at which a firearms or ammunition business or activity requiring a license under this part is conducted; however, no license is required to cover a separate warehouse used by the licensee solely for storage of firearms or ammunition if the records required by this part are maintained at the licensed premises served by such warehouse: *Provided*, That a licensed collector may acquire curios and relics at any location, and dispose of curios or relics to any licensee, or to other persons who are residents of the State where the collector's license is held and the disposition is made.

§ 178.51 License not transferable.

Licenses issued under this part are not transferable. In the event of the lease, sale, or other transfer of the operations authorized by the license, the successor must obtain the license required by this part prior to commencing such operations. However, for rules on right of succession, see § 178.56.

§ 178.52 Change of address.

A licensee may during the term of his current license remove his business or activity to a new location at which he intends regularly to carry on such business or activity, without procuring a new license. However, in every case, whether or not the removal is from one internal revenue region to another, notification of the new location of the business or activity must be given not less than 10 days prior to such removal to the Regional regulatory administrator for the internal revenue region from which or within which the removal is to be made, and the Regional regulatory administrator for the internal revenue region to which the removal is to be made. In each instance, the license and the copy thereof furnished with the license must be submitted for endorsement to the Regional regulatory administrator having jurisdiction over the internal revenue region to which or within which removal is to be made. After endorsement of the license and the copy thereof to show the new address, and the new license number, if any, the Regional regulatory administrator will return same to the licensee.

§ 178.53 Change in trade name.

A licensee continuing to conduct business at the location shown on his license is not required to obtain a new license by reason of a mere change in trade name under which he conducts his business: *Provided*, That such licensee furnishes his license for endorsement of such change to the Regional regulatory administrator for the internal revenue region in which the licensee conducts his business within 30 days from the date the licensee begins his business under the new trade name.

§ 178.54 Change of control.

In the case of a corporation or association holding a license under this part, if actual or legal control of the corporation or association changes, directly or indirectly, whether by reason of change in stock ownership or control (in the licensed corporation or in any other corporation), by operations of law, or in any other manner, the licensee shall, within 30 days of such change, give written notification thereof, executed under the penalties of perjury, to the Regional regulatory administrator. Upon expiration of the license, the corporation or association must file a Form 7 (Firearms) as required by § 178.44.

§ 178.55 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the business under the license of the partnership. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall obtain a license in his own name from the date of acquisition, as provided in § 178.44. The rule set forth in this section shall also apply where there is more than one surviving partner.

§ 178.56 Right of succession by certain persons.

(a) Certain persons other than the licensee may secure the right to carry on the same firearms or ammunition business at the same address shown on, and for the remainder of the term of, a current license. Such persons are:

(1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee; and

(2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

(b) In order to secure the right provided by this section, the person or persons continuing the business shall furnish the license for that business for endorsement of such succession to the Regional regulatory administrator for the internal revenue region in which the business is conducted within 30 days from the date on which the successor begins to carry on the business.

§ 178.57 Discontinuance of business.

Where a firearm or ammunition business is either discontinued or succeeded by a new owner, the owner of the business discontinued or succeeded shall within 30 days thereof furnish to the Regional regulatory administrator for the internal revenue region in which his business was located notification of the discontinuance or succession. (See also § 178.127.)

§ 178.58 State or other law.

A license issued under this part confers no right or privilege to conduct business or activity contrary to State or other law. The holder of such a license is not by reason of the rights and privileges granted by that license immune from punishment for operating a firearm or ammunition business or activity in violation of the provisions of any State or other law. Similarly, compliance with the provisions of any State or other law affords no immunity under Federal law or regulations.

§ 178.59 Abandoned application.

Upon receipt of an incomplete or improperly executed application on Form 7 (Firearms), or Form 8 (Firearms) (Part 3), the applicant shall be notified of the deficiency in the application. If the application is not corrected and returned within 30 days following the date of notification, the application shall be considered as having been abandoned and the license fee returned.

§ 178.60 Certain continuances of business.

A licensee who furnishes his license to the Regional regulatory administrator for correction or endorsement in compliance with the provisions contained in this subpart may continue his operations while awaiting its return.

Subpart E—License Proceedings

§ 178.71 Denial of an application for license.

Whenever the Regional regulatory administrator has reason to believe that an applicant is not eligible to receive a license under the provisions of § 178.47, he may issue a notice of denial, on Form 4498, to the applicant. The notice shall set forth the matters of fact and law relied upon in determining that the application should be denied, and shall afford the applicant 15 days from the date of receipt of the notice in which to request a hearing to review the denial. If no request for a hearing is filed within such time, the application shall be disapproved and a copy, so marked, shall be returned to the applicant.

§ 178.72 Hearing after application denial.

If the applicant for an original or renewal license desires a hearing to review the denial of his application, he shall file a request therefor, in duplicate, with the Regional regulatory administrator within 15 days after receipt of the notice of denial. The request should include a statement of the reasons therefor. On receipt of the request, the Regional regulatory administrator shall, as expeditiously as possible, make the necessary arrangements for the hearing and advise the applicant of the date, time, location, and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all relevant facts and circumstances presented by the applicant or his representative, the Regional regulatory administrator shall render his decision confirming or reversing the denial of the application. If the decision is that the denial should stand, a certified copy of the Regional regulatory administrator's findings and conclusions shall be furnished to the applicant with a final notice of denial, Form 4501. A copy of the application, marked "Disapproved," will be returned to the applicant. If the decision is that the license applied for should be issued, the applicant shall be so notified, in writing, and the license shall be issued as provided by § 178.47.

§ 178.73 Notice of contemplated revocation.

Whenever the Regional regulatory administrator has reason to believe that a licensee has violated any provision of the Act or this part, he may issue a notice, on Form 4499, of contemplated revocation of the license. The notice shall set forth the matters of fact constituting the violations specified, dates, places, and the sections of law and regulations violated. The Regional regulatory administrator shall afford the licensee 15 days from the date of receipt of the notice in which to request a hearing prior to revocation of the license. If the licensee does not file a timely request for a hearing, the Regional regulatory administrator shall issue a notice of revocation, Form 4500, as provided in § 178.74.

§ 178.74 Request for hearing after notice of contemplated revocation.

If a licensee desires a hearing pursuant to receipt of a notice of contemplated revocation of his license, he shall file a request therefor, in duplicate, with the Regional regulatory administrator within 15 days after receipt of the notice of contemplated revocation. On receipt thereof, the Regional regulatory administrator shall, as expeditiously as possible, make the necessary arrangements for the hearing and advise the licensee of the date, time, location and the name of the officer before whom the hearing will be held. Such notification shall be made not less than 10 days in advance of the date set for the hearing. On conclusion of the hearing and consideration of all relevant presentations made by the licensee or his representative, the Regional regulatory administrator shall render his decision and shall prepare a brief summary of the findings and conclusions on which the decision is based. If the decision is that the license should be revoked, a certified copy of the summary shall be furnished to the licensee with the notice of revocation on Form 4500. If the decision is that the license should not be revoked, the licensee shall be so notified in writing.

§ 178.75 Hearing after notice of revocation.

(a) *No hearing held prior to notice of revocation.* If the licensee did not request a hearing on receipt of the notice of contemplated revocation of his license, Form 4499, but does file a timely request for a hearing after being served the notice of revocation, Form 4500, the Regional regulatory administrator shall arrange for, and conduct, a hearing in the manner prescribed in § 178.74, except that the place of hearing will be determined as provided by § 178.81. If, after hearing, the Regional regulatory administrator is still of the opinion that the license should be revoked, he will serve final notice of revocation, Form 4501, on the licensee, with a copy of his find-

ings and conclusions. If he decides that the license should not be revoked, he will so notify the licensee, in writing.

(b) *Hearing held prior to notice of revocation.* If a hearing was held prior to notice of revocation, Form 4500, and the licensee files a timely request for a hearing after receipt of a notice of revocation, the Regional regulatory administrator shall refer the matter to the administrative law judge, appointed under 5 U.S.C. 3105, designated to preside over such hearing. The administrative law judge shall set a time and place for the hearing and shall serve notice thereof on the licensee and the Regional regulatory administrator at least 10 days in advance of the hearing date. Such hearing shall be conducted under the applicable provisions of Part 200 of this chapter, including those with respect to stipulations at hearings, evidence, and closing of hearings.

§ 178.76 Recommended decision of administrative law judge.

Within a reasonable time after the conclusion of a hearing held as provided in § 178.75, and as expeditiously as possible, the administrative law judge shall render a recommended decision. Such decision shall become a part of the record and, if proposed findings and conclusions have been filed, shall show the administrative law judge's ruling upon each of such proposed findings and conclusions. Decisions shall consist of (a) a brief statement of the issues of fact involved in the proceeding; (b) the administrative law judge's findings and conclusions, as well as the reasons and basis therefor, upon all the material issues of fact, law or discretion presented on the record; and (c) the administrative law judge's recommended determination on the record.

§ 178.77 Certification and transmittal of record and recommended decision to Director.

After reaching his decision, the administrative law judge shall certify to the complete record of the proceeding before him and shall immediately forward it, together with two copies of his recommended decision, to the Director, and will forward two copies of his recommended decision to the Regional regulatory administrator for his files.

§ 178.78 Decision of Director.

After consideration of the record and the recommended decision of the administrative law judge, the Director shall approve or disapprove the findings, conclusion, and recommended decision of the administrative law judge, and he shall direct the Regional regulatory administrator to issue a final notice of revocation on Form 4501; or to inform the licensee that the license shall remain in effect. Any decision of the Director for the revocation of a license shall include a statement of the findings and conclusions upon which it is based, including his ruling on each proposed finding, conclusion, and exception to the administrative law judge's recommended decision, together with a statement of his findings and conclusions, and reasons or basis therefor, upon all material issues of fact, law, or discretion presented on the record. A signed duplicate original of the decision shall be served on the licensee and a copy containing certificate of service shall be retained by the Regional regulatory administrator for his files, and the original shall be placed in the official record of the proceeding.

§ 178.79 Service on applicant or licensee.

All notices and other formal documents required to be served on an applicant or licensee under this subpart shall be served by certified mail or by personal delivery. Where service is by certified mail, a signed duplicate original copy of the formal document shall be mailed, with return receipt requested, to the applicant or licensee at the address stated in his application or license, or at his last known address. Where service is by personal delivery, a signed duplicate original copy of the formal document shall be delivered to the applicant or licensee, or, in the case of a corporation, partnership, or association, by delivering it to an officer, manager, or general agent thereof, or to its attorney of record.

§ 178.80 Representation at a hearing.

An applicant or licensee may be represented by an attorney or other person recognized to practice before the Internal Revenue Service as provided in 31 CFR Part 10 (Treasury Department Circular No. 230), if he has otherwise complied with the applicable requirements of §§ 601.521-601.527 of this chapter. The Regional regulatory administrator may be represented in proceedings under § 178.75(b) by an attorney in the office of the regional counsel who is authorized to execute and file motions, briefs and other papers in the proceeding, on behalf of the Regional regulatory administrator, in his own name as "Attorney for the Government."

§ 178.81 Designated place of hearing.

The designated place of hearing shall be at a location convenient to the aggrieved party: *Provided*, That any hearing held after notice of contemplated revocation but prior to the notice of revocation shall be at the office of the Regional regulatory administrator.

§ 178.82 Operations by licensees after notice.

In any case where denial or revocation proceedings are pending before the Internal Revenue Service, or notice of denial or revocation has been served on the licensee and he has filed timely request for a hearing, the license in the possession of the licensee shall remain in effect even though (a) such license has expired, or (b) the revocation date specified in the notice of revocation on Form 4500 served on the licensee has passed: *Provided*, That under the condition of paragraph (a) of this section, the licensee has timely filed an application for the renewal of his license. If a licensee is dissatisfied with a posthearing decision revoking the license or denying the application, as the case may be, he may, pursuant to 18 U.S.C. 923(f)(3), within 60 days after receipt of the final notice denying the application or revoking the license, file a petition for judicial review of such action. Such petition should be filed with the U.S. district court for the district in which the applicant or licensee resides or has his principal place of business. In such case, when the Regional regulatory administrator finds that justice so requires, he may (1) postpone the effective date of revocation of a license or (2) authorize continued operations under the expired license, as applicable, pending judicial review.

Subpart F—Conduct of Business

§ 178.91 Posting of license.

Any license issued under this part shall be kept posted and kept available for inspection on the premises covered by the license.

§ 178.92 Identification of firearms.

Each licensed manufacturer or licensed importer of any firearm manufactured or imported on or after the effective date of this part shall legibly identify each such firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any

serial number placed by the manufacturer or importer on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) wherein the licensed manufacturer maintains his place of business; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer: *Provided,* That the Director may authorize other means of identification of the licensed manufacturer or licensed importer upon receipt of letter application, in duplicate, from same showing that such other identification is reasonable and not hinder the effective administration of this part: *Provided, further,* That in the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of letter application, in duplicate, from the licensed manufacturer or licensed importer showing that engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable. A firearm frame or receiver which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a licensed manufacturer or licensed importer, shall be identified as required by this section.

§ 178.93 Authorized operations by a licensed collector.

The license issued to a collector of curios or relics under the provisions of this part shall cover only transactions by the licensed collector in curios and relics. The collector's license is of no force or effect and a licensed collector is of the same status under the Act and this part as a nonlicensee with respect to (a) any acquisition or disposition of firearms or ammunition other than curios or relics, or any transportation, shipment, or receipt of firearms or ammunition other than curios or relics in interstate or foreign commerce, and (b) any transaction with a nonlicensee involving any firearm or ammunition other than a curio or relic. (See also § 178.50.)

§ 178.94 Sales or deliveries between licensees.

A licensed importer, licensed manufacturer, or licensed dealer selling or otherwise disposing of firearms or ammunition, and a licensed collector selling or otherwise disposing of curios or relics, to another licensee shall verify the identity and licensed status of the transferee prior to making the transaction. On and after February 14, 1969, such verification shall be established by the transferee furnishing to the transferor a certified copy of the transferee's license and by such other means as the transferor deems necessary: *Provided,* That it shall not be required (a) for a transferee who has furnished a certified copy of his license to a transferor to again furnish such certified copy to that transferor during the term of the transferee's current license, and (b) for licensees of multilicensed business organizations to furnish certified copies of their licenses to other licensed locations operated by such organization: *Provided further,* That a multilicensed business organization may furnish to a transferor, in lieu of a certified copy of each license, a list, certified to be true, correct and complete, containing the name, address license number, and the date of license expiration of each licensed location operated by such organization, and the transferor may sell or otherwise dispose of firearms and ammunition as provided by this section to any licensee appearing on such list without requiring a certified copy of a license therefrom. A transferor licensee who has the certified information required by this section may sell or dispose of firearms or ammunition to a licensee for not more than 45 days following the expiration date of the transferee's license.

§ 178.95 Certified copy of license.

Each person licensed under the provisions of this part shall be furnished together with his license a copy thereof for his certification. If such a person desires an additional copy of his license for certification and for use pursuant to § 178.94, he shall:

(a) Make a reproduction of the copy of his license and execute same, or

(b) Make a reproduction of his license, enter upon such reproduction the statement: "I certify that this is a true copy of a license issued to me to engage in the business specified in Item 5" and sign his name adjacent thereto, or

(c) Submit a request, in writing, for certified copies of his license to the Regional regulatory administrator for the internal revenue region in which the license was issued. The request shall set forth the name, trade name (if any) and address of the licensee, and the number of copies of the license desired. There shall be imposed a fee of $1 for each copy of a license issued by the Regional regulatory administrator under the provisions of this paragraph. Fee payment shall accompany each such request for additional copies of a license. Such fee shall be paid by (1) cash, or (2) money order or check made payable to the Internal Revenue Service.

§ 178.96 Out-of-State and mail order sales.

(a) The provisions of this section shall apply in any case where a firearm purchased by or delivered to the person so receiving the firearm is not otherwise prohibited by the Act or this part.

(b) A licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a nonlicensee who does not appear in person at the licensee's business premises if the nonlicensee is a resident of the same State in which the licensee's business premises are located, and the nonlicensee furnishes to the licensee the firearms transaction record, Form 4473, required by § 178.124. The nonlicensee shall attach to such record a true copy of any permit or other information required pursuant to any statute of the State and published ordinance applicable to the locality in which he resides. The licensee shall prior to shipment or delivery of the firearm, forward by registered or certified mail (return receipt requested) a copy of the record, Form 4473, to the chief law enforcement officer named on such record, and delay shipment or delivery of the firearm for a period of at least 7 days following receipt by the licensee of the return receipt evidencing delivery of the copy of the record to such chief law enforcement officer, or the return of the copy of the record to him due to the refusal of such chief law enforcement officer to accept same in accordance with U.S. Post Office Department regulations. The original Form 4473, and evidence of receipt or rejection of delivery of the copy of the Form 4473 sent to the chief law enforcement officer shall be retained by the licensee as a part of the records required of him to be kept under the provisions of Subpart H of this part.

(c) A licensed importer, licensed manufacturer, or licensed dealer may sell or deliver a rifle or shotgun, and (a licensed collector may sell or deliver a rifle or shotgun which is a curio or relic), to a nonlicensed resident of a State contiguous to the State in which the licensee's place of business is locat-

ed if the purchaser's State of residence has enacted legislation, currently in force, specifically authorizing a resident of that State to purchase a rifle or shotgun in a contiguous State, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale or delivery for sale, of the rifle or shotgun, complied with all the requirements of paragraph (b) of this section applicable to intrastate transactions occurring on other than the licensee's business premises.

(d) A licensed dealer may sell to any nonlicensee who is a resident of a State other than the State in which the licensed dealer's premises are located, and who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in the State in which the licensed dealer's premises are located, and whose rifle or shotgun has been lost or stolen or has become inoperative in the State in which the licensed dealer's premises are located, if the nonlicensee presents to the licensed dealer a sworn statement, in duplicate, (1) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in the State in which the licensed dealer's business premises are located, (2) setting forth the name and address of the organized rifle or shotgun match or contest, or the nature and location of the hunting, and the circumstances surrounding the firearm's loss or theft, or the reason why the firearm has become inoperative, and (3) identifying the chief law enforcement officer (sheriff, chief of police, or police precinct captain) of the locality in which the nonlicensee resides. Immediately upon delivery of the rifle or shotgun to the nonlicensee, the licensed dealer shall forward a copy of the sworn statement, by registered mail, to the chief law enforcement officer named by the nonlicensee. The licensee shall retain the original sworn statement, and evidence of delivery of the copy thereof to the chief law enforcement officer, as a part of the records required of him under Subpart H of this part.

§ 178.97 Loan or rental of firearms.

A licensee may loan or rent a firearm to any person for temporary use off the premises of the licensee for lawful sporting purposes: *Provided*, That the delivery of the firearm to such person is not prohibited by § 178.99(b) or § 178.99(c), and the licensee records such loan or rental in the records required to be kept by him under Subpart H of this part. A club, association, or similar organization temporarily furnishing firearms (whether by loan, rental, or otherwise) to participants in a skeet, trap, target, or similar shooting activity for use at the time and place such activity is held does not, unattended by other circumstances, cause such club, association, or similar organization to be engaged in the business of a dealer in firearms or as engaging in firearms transactions. Therefore, the licensing and recordkeeping requirements contained in this part pertaining to firearms transactions would not apply to this temporary furnishing of firearms for use on premises on which such an activity is conducted.

§ 178.98 Sales or deliveries of destructive devices and certain firearms.

The sale or delivery by a licensee of any destructive device, machinegun, short-barreled shotgun, or short-barreled rifle, to any person other than another licensee who is licensed under this part to deal in such device or firearm, is prohibited unless the person to receive such device or firearm furnishes to the licensee a sworn statement, in triplicate, setting forth (a) the reasons why there is a reasonable necessity for such person to purchase or otherwise acquire the device or weapon, and (b) that such person's receipt or possession of the device or weapon would be consistent with public safety. Such sworn statement shall be attached to the application to transfer and register the firearm required by Part 179 of this chapter. The sale or delivery of the device or weapon shall not be made until the application for transfer is approved by the Director and returned to the licensee (transferor) as provided in Part 179 of this chapter.

§ 178.99 Certain prohibited sales or deliveries.

(a) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver any firearm to any person not licensed under this part, or the Federal Firearms Act, and who the licensee knows or has reasonable cause to believe does not reside in (or if a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business or activity is located: *Provided*, That the foregoing provisions of this paragraph (1) shall not apply to the sale or delivery of a rifle or shotgun (curio or relic, in the case of a licensed collector) to a resident of a State contiguous to the State in which the licensee's place of business or collection premises is located if the requirements of § 178.96(c) are fully met, (2) shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if the requirements of § 178.96(d) are fully met, and (3) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes (see § 178.97).

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or deliver (1) any firearm or ammunition to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 18 years of age, and, if the firearm, or ammunition, is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the importer, manufacturer, dealer, or collector knows or has reasonable cause to believe is less than 21 years of age, or (2) any firearm or ammunition to any person in any State where the purchase or possession by such person of such firearm or ammunition would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the importer, manufacturer, dealer or collector knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance.

(c) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall not sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person (1) is except as provided under § 178.143, under indictment for, or, except as provided under § 178.144, has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. 321(v)), or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954), or (4) has been adjudicated as a mental defective or has been committed to any mental institution.

§ 178.100 Record of transactions.

Every licensee shall maintain firearms and ammunition records in such form and manner as is prescribed by Subpart H of this part.

Subpart G—Importation

§ 178.111 General.

(a) Section 922(a)(3) of the Act makes it unlawful, with certain exceptions not pertinate here, for any person other than a licensee, to transport into or receive in the State where he resides any firearm purchased or otherwise obtained by him outside of that State. However, section 925(a)(4) provides a limited exception for the transportation, shipment, receipt or importation of certain firearms and ammunition by certain members of the United States armed forces. Section 922(1) of the Act makes it unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition except as provided by section 925(d) of the Act, which section provides standards for importing or bringing firearms or ammunition into the United States. Accordingly, no firearm or ammunition may be imported or brought into the United States except as provided by this part.

(b) Where a firearm or ammunition is imported and the authorization for importation required by this subpart has not been obtained by the person importing same, such person shall:

(1) Store, at his expense, such firearm or ammunition at a facility designated by U.S. Customs or the Regional regulatory administrator to await the issuance of the required authorization or other disposition; or

(2) Abandon such firearm or ammunition to the U.S. Government; or

(3) Export such firearm or ammunition.

(c) Any inquiry relative to the provisions or procedures under this subpart, other than that pertaining to the payment of customs duties or the release from Customs custody of firearms or ammunition authorized by the Director to be imported, shall be directed to the Regional regulatory administrator for reply.

§ 178.112 Importation by a licensed importer.

(a) No firearm or ammunition shall be imported or brought into the United States by a licensed importer (as defined in § 178.11) unless the Director has authorized the importation of the firearm or ammunition, or the firearm or ammunition is listed on the Importation List compiled by the Director as provided by paragraph (c) of this section.

(b) An application for a permit, Form 6 (Firearms), to import or bring a firearm or ammunition into the United States or a possession thereof under this section shall be filed, in triplicate, with the Director. The application shall contain (1) the name, address, and license number of the importer, (2) a description of the firearm or ammunition to be imported, including type (e.g.: rifle, shotgun, pistol, revolver), model, caliber, size or gauge, barrel length (if a firearm), country of manufacture, and name of the manufacturer, (3) the unit cost of the firearm to be imported, (4) the country from which to be imported, (5) the name and address of the foreign seller and the foreign shipper, (6) verification that if a firearm, it will be identified as required by this part, and (7)(i) if imported or brought in for scientific or research purposes, a statement describing such purposes, or (ii) if for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use, or (iii) if an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece, or (iv) if a firearm, other than a surplus military firearm, of a type that does not fall within the definition of a firearm by section 5845(a) of the Internal Revenue Code of 1954, and is for sporting purposes, an explanation of why the applicant believes the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes, or (v) if ammunition being imported for sporting purposes, a statement why the applicant believes it is generally recognized as particularly suitable for or readily adaptable to sporting purposes. In determining whether a firearm or ammunition is particularly suitable for or readily adaptable to sporting purposes, the Director may seek the recommendation of the advisory board authorized by paragraph (c) of this section. If the Director approves the application, such approved application shall serve as the permit to import the firearms or ammunition described therein, and importation of such firearms or ammunition may continue to be made by the licensed importer under the approved application (permit) during the period specified thereon. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the licensed importer shall be notified of the basis for the disapproval.

(c) The Director may compile an Importation List of firearms and ammunition which he determines to be generally recognized as particularly suitable for or readily adaptable to sporting purposes. The determination of the Director that a firearm or ammunition is generally recognized to be particularly suitable for or readily adaptable to sporting purposes may be made with the assistance of an advisory board to be appointed by the Director. Such board may be composed of persons from within and without governmental agencies who are recognized as being particularly knowledgeable in the use and classification of firearms and ammunition. No firearm shall be placed on the Importation List unless it is found that (1) the caliber or gauge of the firearm is suitable for use in a recognized shooting sport, (2) the type of firearm is generally recognized as particularly suitable for or readily adaptable to such use, and (3) the use of the firearm in a recognized shooting sport will not endanger the person using it due to deterioration through such use or because of inferior workmanship, materials or design. No ammunition shall be placed on the Importation List unless it is found that (i) the caliber, size or gauge of the ammunition is suitable for use in a recognized shooting sport, (ii) the type of ammunition is generally recognized as particularly suitable for or readily adaptable to such use, and (iii) the use of the ammunition in a recognized shooting sport will not endanger the person using it.

(d) A firearm or ammunition imported or brought into the United States by a licensed importer may be released from Customs custody to the licensed importer upon his showing that he has obtained a permit from the Director for the importation of the firearm or ammunition to be released, or that the firearm or ammunition appears on the Importation List. In obtaining the release from Customs custody of a firearm or ammunition authorized by this section to be imported through use of a permit or because the firearm or ammunition appears on the Importation List, the licensed importer shall prepare Form 6A (Firearms), in duplicate, and furnish the original Form 6A (Firearms) to the Customs officer releasing the firearm or ammunition. The Customs officer shall, after certification, forward the Form 6A (Firearms) to the Regional regulatory ad-

ministrator for the region wherein the licensed importer maintains his place of business. The Form 6A (Firearms) shall show the name, address, and license number of the importer, the name of the manufacturer of the firearm or ammunition, the country of manufacture, the type, model, and caliber, size or gauge, and the number of firearms or rounds of ammunition released.

(e) Within 15 days of the date of release from Customs custody, the licensed importer shall (1) forward to the Regional regulatory administrator a copy of Form 6A (Firearms) on which shall be reported any error or discrepancy appearing on the Form 6A (Firearms) certified by Customs, (2) pursuant to § 178.92, place all required identification data on each imported firearm if same did not bear such identification data at the time of its release from Customs custody, and (3) post in the records required to be maintained by him under Subpart H of this part, all required information regarding the importation.

§ 178.113 Importation by other licensees.

(a) No person other than a licensed importer (as defined in § 178.11) shall engage in the business of importing firearms or ammunition. Therefore, no firearm or ammunition shall be imported or brought into the United States or a possession thereof by any licensee other than a licensed importer unless the Director issues a permit authorizing the importation of the firearm or ammunition.

(b) An application for a permit, Form 6 (Firearms), to import or bring a firearm or ammunition into the United States or a possession thereof by a licensee, other than a licensed importer, shall be filed, in triplicate, with the Director. The application shall contain (1) the name, address, and the license number of the applicant, (2) a description of the firearm or ammunition to be imported, including type (e.g.: rifle, shotgun, pistol, revolver), model, caliber, size or gauge, barrel length (if a firearm), country of manufacture, and name of the manufacturer, (3) the unit cost of the firearm or ammunition to be imported, (4) the name and address of the foreign seller and the foreign shipper, (5) the country from which the firearm or ammunition is to be imported, and (6)(i) if the firearm or ammunition is being imported or brought in for scientific or research purposes, a statement describing such purposes, or (ii) if for use in connection with competition or training pursuant to Chapter 401 of Title 10, U.S.C., a statement describing such intended use, or (iii) if an unserviceable firearm (other than a machine gun) being imported as a curio or museum piece, a description of how it was rendered unserviceable and an explanation of why it is a curio or museum piece, or (iv) if a firearm, other than a surplus military firearm, of a type that does not fall within the definition of a firearm under 5845(a) of the Internal Revenue Code of 1954, and is for sporting purposes, an explanation of why the applicant believes the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes, or (v) if ammunition being imported for sporting purposes, a statement why the applicant believes it is generally recognized as particularly suitable for or readily adaptable to sporting purposes. If the Director approves the application, such approved application shall serve as the permit to import the firearm or ammunition described therein. The Director shall furnish the approved application (permit) to the applicant and retain two copies thereof for administrative use. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(c) A firearm or ammunition imported or brought into the United States or a possession thereof under the provisions of this section may be released from Customs custody to the licensee importing the firearm or ammunition upon his showing that he has obtained a permit from the Director for the importation. In obtaining the release of the firearm or ammunition from Customs custody, the licensee importing same shall furnish a Form 6A (Firearms) to the Customs officer releasing the firearm or ammunition. The Customs officer shall, after certification, forward the Form 6A (Firearms) to the Regional regulatory administrator for the region wherein the licensee importing the firearm or ammunition maintains his licensed premises. The Form 6A (Firearms) shall show the name, address, and the license number of the licensee, the name of the manufacturer, the country of manufacture, and the type, model, and caliber, size (if ammunition) or gauge of the firearm or ammunition so released, and, if applicable, the number of firearms or rounds of ammunition released.

§ 178.114 Importation by members of the U.S. Armed Forces.

(a) The Director may issue a permit authorizing the importation of a firearm or ammunition into the United States to the place of residence of any military member of the U.S. Armed Forces who is on active duty outside the United States, or who has been on active duty outside the United States within the 60-day period immediately preceding the intended importation: *Provided*, That such firearm or ammunition is generally recognized as particularly suitable for or readily adaptable to sporting purposes and is intended for the personal use of such member. An application for such a permit, Form 6 (Firearms), shall be filed, in triplicate, with the Director. The application shall contain (1) the name and current address of the applicant, (2) certification that the transportation, receipt, or possession of the firearm or ammunition to be imported would not constitute a violation of any provision of the Act, Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), or of any State law or local ordinance at the place of the applicant's residence, (3) a description of the firearm or ammunition to be imported, including type (e.g.: rifle, shotgun, pistol, revolver), model, caliber, size or gauge, barrel length (if a firearm), country of manufacture, and the name of the manufacturer, (4) the unit cost of the firearm or ammunition to be imported, (5) the name and address of the foreign seller (if applicable) and the foreign shipper, (6) the country from which the firearm or ammunition is to be imported, (7)(i) that the firearm or ammunition being imported is for the personal use of the applicant, and (ii) if a firearm, a statement that it is not a surplus military firearm, that it does not fall within the definition of a firearm under section 5845(a) of the Internal Revenue Code of 1954, and an explanation of why the applicant believes the firearm is generally recognized as particularly suitable for or readily adaptable to sporting purposes, or (iii) if ammunition, a statement why the applicant believes it is generally recognized as particularly suitable for or readily adaptable to sporting purposes, and (8) the applicant's date of birth, his rank or grade, his place of residence, his present foreign duty station or his last foreign duty station, as the case may be, the date of his reassignment to a duty station within the United States, if applicable, and the military branch of which he is a member. If the Director approves the application, such approved application shall serve as the permit to import the firearm or ammunition described therein. The Director shall furnish the approved application (permit) to the applicant and shall retain the two copies thereof for administrative pur-

poses. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(b) Upon receipt of an approved application (permit) to import the firearm or ammunition, the applicant may obtain the release of same from Customs custody upon his showing that he has obtained a permit from the Director for the importation. In obtaining the release of the firearm or ammunition from Customs custody, the military member of the U.S. Armed Forces importing same shall furnish a Form 6A (Firearms) to the Customs officer releasing the firearm or ammunition. The Customs officer shall, after certification, forward the Form 6A (Firearms) to the Regional regulatory administrator for the region wherein the State of residence of the military member of the U.S. Armed Forces is located. The Form 6A (Firearms) shall show the name and address of such military member, the name of the manufacturer, the country of manufacture, and the type, model, and caliber, size or gauge of the firearm or ammunition so released, and, if applicable, the number of firearms or rounds of ammunition released. However, when such military member is on active duty outside the United States, he may appoint, in writing, an agent to obtain the release of the firearm or ammunition from Customs custody for him. Such agent shall present sufficient identification of himself and the written authorization to act on behalf of such military member to the Customs officer who is to release the firearm or ammunition.

(c) Firearms determined by the Department of Defense to be war souvenirs may be imported into the United States by the military members of the U.S. Armed Forces under such provisions and procedures as the Department of Defense may issue.

§ 178.115 Exempt importation.

(a) Firearms and ammunition may be brought into the United States or any possession thereof by any person who can establish to the satisfaction of Customs that such firearm or ammunition was previously taken out of the United States or any possession thereof by such person. Registration on Customs Form 4457 or on any other registration document available for this purpose may be completed before departure from the United States at any U.S. customhouse or any office of an Regional regulatory administrator. A bill of sale or other commercial document showing transfer of the firearm or ammunition in the United States to such person also may be used to establish proof that the firearm or ammunition was taken out of the United States by such person. Firearms and ammunition furnished under the provisions of section 925(a)(3) of the Act to military members of the U.S. Armed Forces on active duty outside of the United States also may be imported into the United States or any possession thereof by such military members upon establishing to the satisfaction of Customs that such firearms and ammunition were so obtained.

(b) Firearms and ammunition may be imported or brought into the United States by or for the United States or any department or agency thereof, or any State or any department, agency, or political subdivision thereof. A firearm or ammunition imported or brought into the United States under this paragraph may be released from Customs custody upon a showing that the firearm or ammunition is being imported or brought into the United States by or for such a governmental entity.

(c) The provisions of this subpart shall not apply with respect to the importation into the United States of any antique firearm.

(d) Firearms and ammunition are not imported into the United States, and the provisions of this subpart shall not apply, when such firearms and ammunition are brought into the United States by:

(1) A nonresident of the United States for legitimate hunting or lawful sporting purposes, and such firearms and such ammunition as remains following such shooting activity are to be taken back out of the territorial limits of the United States by such person upon conclusion of the shooting activity;

(2) Foreign military personnel on official assignment to the United States who bring such firearms or ammunition into the United States for their exclusive use while on official duty in the United States;

(3) Official representatives of foreign governments who are accredited to the U.S. Government or are en route to or from other countries to which accredited;

(4) Officials of foreign governments and distinguished foreign visitors who have been so designated by the Department of State; and

(5) Foreign law enforcement officers of friendly foreign governments entering the United States on official law enforcement business.

(e) Notwithstanding the provisions of paragraph (d)(2), (3), (4), and (5) of this section, the Secretary of the Treasury or his delegate may in the interest of public safety and necessity require a permit for the importation or bringing into the United States of any firearms or ammunition.

§ 178.116 Conditional importation.

The Director may permit the conditional importation or bringing into the United States or any possession thereof of any firearm or ammunition for the purpose of examining and testing the firearm or ammunition in connection with making a determination as to whether the importation or bringing in of such firearm or ammunition will be authorized under this part. An application for such conditional importation shall be filed, in duplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm or ammunition be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm or ammunition must agree to either export the firearm or ammunition or destroy same if a determination is made that the firearm or ammunition may not be imported or brought in under this part. A firearm or ammunition imported or brought into the United States or any possession thereof under the provisions of this section shall be released from Customs custody upon the payment of customs duties, if applicable, and in the manner prescribed in the conditional authorization issued by the Director.

§ 178.117 Function outside a customs territory.

In the insular possessions of the United States outside customs territory, the functions performed by U.S. Customs officers under this subpart within a customs territory may be performed by the appropriate authorities of a territorial government or other officers of the United States who have been designated to perform such functions. For the purpose of this subpart, the term customs territory means the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Subpart H—Records

§ 178.121 General.

(a) The records pertaining to firearms transactions prescribed by this part shall be in permanent form, and shall be retained on the licensed premises in the manner prescribed by this subpart. The records pertaining to am-

munition prescribed by this part shall be retained on the licensed premises in the manner prescribed by § 178.125.

(b) ATF officers may enter the premises of any licensed importer, licensed manufacturer, licensed dealer, or licensed collector for the purpose of examining or inspecting any record or document required by or obtained under this part (see § 178.23). Section 923(g) of the Act requires licensed importers, licensed manufacturers, licensed dealers, and licensed collectors to make such records available for such examination or inspection at all reasonable times.

(c) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, whether temporary or permanent, of firearms and ammunition as the regulations contained in this part prescribe. Section 922(m) of the Act makes it unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain any such record.

§ 178.122 Records maintained by importers.

(a) Each licensed importer shall, within 15 days of the date of importation or other acquisition, record the type, model, caliber or gauge, manufacturer, country of manufacture, and the serial number of each firearm he imports or otherwise acquires, and the date such importation or other acquisition was made. Each licensed importer shall, within 15 days of the date of release from Customs custody or other acquisition, record the type, caliber, size or gauge, manufacturer, and country of manufacture of the ammunition he imports or otherwise acquires, and the date such importation or other acquisition was made.

(b) A record of firearms and a separate record of ammunition disposed of by a licensed importer to another licensee shall be maintained by the licensed importer on his licensed premises and shall show the quantity, type, manufacturer, country of manufacture, caliber, size or gauge, serial number (in the case of firearms only), of the firearms or ammunition so transferred, the name, address, and license number of the licensee to whom the firearms or ammunition were transferred, and the date of the transaction. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the following format:

Quantity	Type	Manufacturer	Country of manufacture	Caliber, size or gauge	Model	Serial No.	Name, address, and license No. of licensee to whom transferred	Date of the transaction

(c) Notwithstanding the provisions of paragraph (b) of this section, the Regional regulatory administrator may authorize alternate records to be maintained by a licensed importer to record his disposal of firearms and ammunition when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section. A licensed importer who proposes to use alternate records shall submit a letter application, in duplicate, to the Regional regulatory administrator and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed importer until approval in such regard is received from the Regional regulatory administrator.

(d) Each licensed importer shall maintain separate records of the sales or other dispositions made of firearms and ammunition to nonlicensees. Such records shall be maintained in the form and manner as prescribed by § 178.125 in regard to ammunition transactions, and by §§ 178.124 and 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

§ 178.123 Records maintained by manufacturers.

(a) Each licensed manufacturer shall record the type, model, caliber or gauge, and serial number of each complete firearm he manufactures or otherwise acquires, and the date such manufacture or other acquisition was made. Each licensed manufacturer shall record the type, caliber, size or gauge of the ammunition he manufactures or otherwise acquires. The information required by this paragraph shall be recorded not later than the seventh day following the date such manufacture or other acquisition was made.

(b) A record of firearms and a separate record of ammunition disposed of by a licensed manufacturer to another licensee shall be maintained by the licensed manufacturer on his licensed premises and shall show the quantity, type, caliber, size or gauge, serial number (in the case of firearms only), of the firearms or ammunition so transferred, the name, address, and license number of the licensee to whom the firearms or ammunition were transferred, and the date of the transaction. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction, and such information shall be recorded under the format prescribed by § 178.122 except that the name of the manufacturer and the country of manufacture need not be recorded if the firearm or ammunition is of the manufacturer's own manufacture.

(c) Notwithstanding the provisions of paragraph (b) of this section, the Regional regulatory administrator may authorize alternate records to be maintained by a licensed manufacturer to record his disposal of firearms and ammunition when it is shown by the licensed manufacturer that such alternate records will accurately and readily disclose the information required by paragraph (b) of this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application, in duplicate, to the Regional regulatory administrator and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed manufacturer until approval in such regard is received from the Regional regulatory administrator.

(d) Each licensed manufacturer shall maintain separate records of the sales or other dispositions made of firearms and ammunition to nonlicensees. Such records shall be maintained in the form and manner as prescribed by § 178.125 in regard to ammunition transactions, and by §§ 178.124 and 178.125 in regard to firearms transaction records and records of acquisition and disposition of firearms.

§ 178.124 Firearms transaction record.

(a) A licensed importer, licensed manufacturer, or licensed dealer shall not sell or otherwise dispose, temporarily or permanently, of any firearm to any person, other than another licensee, and a licensed collector shall not sell or otherwise dispose of any curio or relic to any person, other than another licensee, unless he records the transaction on a firearms transaction record, Form 4473: *Provided*, That a firearms transaction record, Form 4473, shall not be required to record the disposition made

of a firearm delivered to a licensee for the sole purpose of repair or customizing when such firearm is returned to the person from whom received.

(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order, and as a part of his permanent records, each Form 4473 he obtains in the course of transferring custody of his firearms.

(c) Prior to making an over-the-counter transfer of a firearm to a nonlicensee who is a resident of the State in which the licensee maintains his business or collection premises, the licensed importer, licensed manufacturer, licensed dealer, or licensed collector so transferring the firearm shall obtain a Form 4473 from the transferee showing the name, address, date and place of birth, height, weight, and race of the transferee, and certification by the transferee that he is not prohibited by the Act or Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C. Appendix) from receiving a firearm in interstate or foreign commerce. The licensee shall identify the firearm to be transferred by listing in the Form 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm. Before transferring the firearm described in the Form 4473, the licensee (1) shall cause the transferee to identify himself in any manner customarily used in commercial transactions (e.g., a driver's license), and shall note on the form the method used, and (2) if satisfied that the transferee is lawfully entitled to receive the firearm, shall sign and date the form.

(d) Prior to making an over-the-counter transfer of a shotgun or rifle to a nonlicensee who is not a resident of the State in which the licensee maintains his business or collection premises, and such nonlicensee is acquiring the shotgun or rifle under the provisions contained in § 178.96(d), the licensed dealer so transferring the shotgun or rifle, and such transferee, shall comply with the requirements of paragraph (c) of this section. In addition, the sworn statement requirements imposed upon the transferee and the licensee by § 178.96(d) also shall be fully met.

(e) Prior to making a transfer of a firearm to any nonlicensee who is not a resident of the State in which the licensee maintains his business or collection premises, and such nonlicensee is acquiring the firearm by loan or rental from the licensee for temporary use for lawful sporting purposes, the licensed importer, licensed manufacturer, licensed dealer, or licensed collector so furnishing the firearm, and such transferee, shall comply with the requirements of paragraph (c) of this section.

(f) Form 4473 shall be submitted, in duplicate, to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, by a transferee who (1) is purchasing or otherwise acquiring a firearm by other than an over-the-counter transaction, and who is a resident of the State in which the licensee maintains his business or collection premises, or (2) is purchasing or otherwise acquiring a shotgun or rifle, and who is a resident of a State contiguous to the State in which the licensee maintains his business or collection premises. The Form 4473 shall show the name, address, date and place of birth, height, weight, and race of the transferee; and the title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered. The transferee also must date and execute the sworn statement contained on the form showing that, in case the firearm to be transferred is a firearm other than a shotgun or rifle, he is 21 years or more of age; that, in case the firearm to be transferred is a shotgun or rifle, he is 18 years or more of age; that he is not prohibited by the provisions of the Act from receiving a firearm in interstate or foreign commerce; and that his receipt of the firearm would not be in violation of any statute of the State and published ordinance applicable to the locality in which he resides. Upon receipt of such Forms 4473, the licensee shall identify the firearm to be transferred by listing in the Forms 4473 the name of the manufacturer, the name of the importer (if any), the type, model, caliber or gauge, and the serial number of the firearm to be transferred. The licensee shall prior to shipment or delivery of the firearm to such transferee, forward by registered or certified mail (return receipt requested) a copy of the Form 4473 to the chief law enforcement officer named in the Form 4473 by the transferee, and shall delay shipment or delivery of the firearm to the transferee for a period of at least 7 days following receipt by the licensee of the return receipt evidencing delivery of the copy of the Form 4473 to such chief law enforcement officer, or the return of the copy of the Form 4473 to the licensee due to the refusal of such chief law enforcement officer to accept same in accordance with U.S. Post Office Department regulations. The original Form 4473, and evidence of receipt or rejection of delivery of the copy of the Form 4473 sent to the chief law enforcement officer, shall be retained by the licensee as a part of the records required of him to be kept under this subpart.

(g) A licensee who sells or otherwise disposes of a firearm to a nonlicensee who is other than an individual, shall obtain from the transferee the information required by this section from an individual authorized to act on behalf of the transferee. In addition, the licensee shall obtain from the individual acting on behalf of the transferee a written statement, executed under the penalties of perjury, that the firearm is being acquired for the use of and will be the property of the transferee, and showing the name and address of that transferee.

(h) The requirements of this section shall be in addition to any other recordkeeping requirement contained in this part.

(i) A licensee may obtain, upon request, a supply of Form 4473 from any Regional regulatory administrator or any District Director.

§ 178.125 Record of receipt and disposition.

(a) *Ammunition received by licensed dealers.* Each licensed dealer shall maintain records of all ammunition he receives for the purposes of sale or distribution. Such record may consist of invoices or other commercial records which shall be filed in an orderly manner separate from other commercial records he maintains, and be readily available for inspection. Such record shall (1) show the name of the manufacturer and the transferor, and the type, caliber or gauge, and quantity of the ammunition acquired in the transaction, and the date of such acquisition, and (2) be retained on the licensed premises of the dealer for a period of not less than two years following the date of the acquisition.

(b) *Ammunition received by licensed collectors.* Each licensed collector shall maintain records of all ammunition he acquires as curios or relics for his collection. Such record may consist of invoices or other commercial records which shall be filed in an orderly manner separate from other commercial records he maintains, and be readily available for inspection. Such records shall show the information required by paragraph (a) of this section and be retained in the same manner.

(c) *Ammunition disposition*—(1) *Sales to nonlicensees.* The sale or other disposition of ammunition, or of an ammunition curio or relic, shall be recorded in a bound record at the time a transaction is made, except that no record need be maintained for the sale of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts of these types of ammunition. Sales or other dispositions of ammunition which are interchangeable between rifles and pistols or revolvers (for example, .22 Rimfire, .45 Pistol and Revolver, and the like) must be recorded. The bound record shall be maintained in chronological order by date of sale or disposition of the ammunition, and shall be retained on the licensed premises of the licensee for a period not less than two years following the date of the recorded sale or disposition of the ammunition.

The bound record entry shall show:

(i) The date of the transaction;

(ii) The name of the manufacturer;

(iii) The caliber or gauge (or the type of ammunition component);

(iv) The quantity of ammunition (or component);

(v) The name, address, and date of birth of the nonlicensee; and

(vi) The method used to establish the identity of the ammunition purchaser.

The format required for the bound record is as follows:

DISPOSITION RECORD OF INTERCHANGEABLE AMMUNITION AND HANDGUN AMMUNITION

Date	Manufacturer	.22 Caliber Rimfire	Other		Purchaser		Enter a (V) in the "known" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification		
		Enter only a (V) if 10 boxes or less. Enter number of boxes if more than 10.	Caliber, gauge, or type of component	No. of boxes	Name and address	Date of birth	Known	Driver's License	Other type (specify)

However, when a commercial record is made at the time a transaction is made, a licensee may delay making an entry into the bound record if he or she complies with provisions of paragraph (d) of this section

(2) *Sales to licensees.* Sales or other dispositions of all ammunition from a licensee to another licensee shall be recorded and maintained in the manner prescribed in § 178.122(b) for importers.

(d) *Commercial records of ammunition sales.* When a commercial record is made at the time of sale or other disposition of ammunition, or of an ammunition curio or relic, and such record contains all information required by the bound record prescribed by paragraph (c) of this section, the licensed dealer or licensed collector transferring the ammunition, or ammunition curio or relic, may, for a period not exceeding 7 days following the date of such transfer, delay making the required entry into such bound record: *Provided,* That the commercial record pertaining to the transfer is; (1) maintained by the licensed dealer or licensed collector separate from other commercial documents maintained by such licensee, and (2) is readily available for inspection on the licensed premises until such time as the required entry into the bound record is made.

(e) *Firearms receipt and disposition.* Each licensed dealer and each licensed collector shall on and after the effective date of this part enter into a permanent record each receipt and disposition of firearms or firearms curios or relics. In addition, before commencing or continuing firearms business or firearms curio and relic collection, each licensed dealer and licensed collector shall inventory the firearms or firearms curios and relics possessed for such business or in such collection and shall record same in the record required by this paragraph: *Provided,* That when a licensed dealer or licensed collector has records maintained under the Federal Firearms Act which readily disclose his inventory of firearms or firearms curios and relics, such inventory need not be recorded in the record required by this paragraph. The record required by this paragraph shall be maintained in bound form under the format prescribed below. The purchase or other acquisition of a firearm by a licensed dealer, or of a firearm curio or relic by a licensed collector, shall, except as provided in paragraph (f) of this section, be recorded not later than the close of the next business day following the date of such purchase or acquisition. The record shall show the date of receipt, the name and address or the name and license number of the person from whom received, the name of the manufacturer and importer (if any), the model, serial number, type of action, and the caliber or gauge of the firearm or firearm curio or relic. The sale or other disposition of a firearm or of a firearm curio or relic shall be recorded by the licensed dealer or the licensed collector not later than seven days following the date of such transaction. When such disposition is made to a nonlicensee, the firearms transaction record, Form 4473, obtained by the licensed dealer or the licensed collector shall be retained, until the transaction is recorded, separate from his Form 4473 file and be readily available for inspection. When such disposition is made to a licensee, the commercial record of the transaction shall be retained, until the transaction is recorded, separate from other commercial documents maintained by the licensed dealer or licensed collector, and be readily available for inspection. The record shall show the date of the sale or other disposition of each firearm or firearm curio or relic, the name of the person to whom the firearm curio or relic is transferred, and the address or license number of the person to whom transferred if such person is a licensee, or the firearms transaction record, Form 4473, serial number if the licensed dealer or the licensed collector transferring the firearm or curio or relic serially numbers his Forms 4473 and files them numerically. The format required for the record of receipt and disposition of firearms or firearms curios and relics is as follows:

FIREARMS ACQUISITION AND DISPOSITION RECORD

Description of firearm					Receipt		Disposition	
Manufacturer and/or Importer	Model	Serial No.	Type of action	Caliber and gauge	Date	From whom (name and address or name and license number)	Date	Name	Address or license No. if licensee, or Form 4473 Serial No. if Forms 4473 filed numerically

(f) *Commercial records of firearms received.* When a commercial record is held by a licensed dealer or licensed collector showing his acquisition of a firearm or firearm curio or relic, and such record contains all acquisition information required by the bound record prescribed by paragraph (e) of this section, the licensed dealer or licensed collector acquiring such firearm or curio or relic, may, for a period not exceeding seven days following the date of such acquisition, delay making the required entry into such bound record: *Provided,* That the commercial record is, until such time as the required entry into the bound record is made (1) maintained by the licensed dealer or licensed collector separate from other commercial documents maintained by such licensee, and (2) is readily available for inspection on the licensed premises: *Provided, further,* That when disposition is made of a firearm or firearm curio or relic not entered in the bound record under the provisions of this paragraph, the licensed dealer or licensed collector making such disposition shall enter all required acquisition information regarding the firearm or firearm curio or relic in the bound record at the time such transfer or dispositon is made.

(g) *Alternate records.* Notwithstanding the provisions of paragraphs (c) and (e) of this section, the regional regulatory administrator may authorize alternate records to be maintained by a licensed dealer or a licensed collector to record his acquisition and disposal of firearms and ammunition, or curios and relics, when it is shown by the licensed dealer or the licensed collector that such alternate records will accurately and readily disclose the required information. A licensed dealer or licensed collector who proposes to use alternate records shall submit a letter application, in duplicate, to the regional regulatory administrator and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed dealer or the licensed collector until approval in such regard is received from the regional regulatory administrator.

(h) *Requirements for importers and manufacturers.* Each licensed importer and licensed manufacturer selling or otherwise disposing of firearms or ammunition to nonlicensees shall maintain such records of such transactions as are required of licensed dealers and licensed collectors by this section.

(Sec. 5, Pub. L. 91-128, 83 Stat. 261 (26 U.S.C. 4182(c)))

[33 FR 18555, Dec. 14, 1968; 33 FR 18699, Dec. 18, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-45, 42 FR 41117, Aug. 15, 1977; 42 FR 43833, Aug. 31, 1977]

§ 178.126 Furnishing transaction information.

(a) Each licensee shall, when required by letter issued by the Regional regulatory administrator, and until notified to the contrary in writing by such officer, submit on Form 4483, Report of Firearms Transactions, for the periods and at the times specified in the letter issued by the Regional regulatory administrator, all record information required by this subpart, or such lesser record information as the Regional regulatory administrator in his letter may specify.

(b) The Regional regulatory administrator may authorize the information to be submitted in a manner other than that prescribed in paragraph (a) of this section when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this part. A licensee who proposes to use an alternate method of reporting shall submit a letter application, in duplicate, to the Regional regulatory administrator and shall describe the proposed alternate method of reporting and the need therefor. An alternate method of reporting shall not be employed by the licensee until approval in such regard is received from the Regional regulatory administrator.

§ 178.126a Reporting multiple sales or other disposition of pistols and revolvers.

Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totaling two or more, to an unlicensed person. The report shall be prepared on Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers, and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

EXAMPLE. 1. A licensee sells a pistol and revolver in a single transaction to an unlicensed person. This is a multiple sale and must be reported not later than the close of business on the date of the transaction.

EXAMPLE. 2. A licensee sells a pistol on Monday and sells a revolver on the following Friday to the same unlicensed person. This is a multiple sale and must be reported not later than the close of business on Friday. If the licensee sells the same unlicensed person another pistol or revolver on the following Monday, this would constitute an additional multiple sale and must also be reported.

EXAMPLE 3. A licensee maintaining business hours on Monday through Saturday sells a revolver to an unlicensed person on Monday and sells another revolver to the same person on the following Saturday. This does not constitute a multiple sale and need not be reported since the sales did not occur during five consecutive business days.

[T.D. ATF-16, 40 FR 19202, May 2, 1975]

§ 178.127 Discontinuance of business.

Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records prescribed by this subpart shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, the records prescribed by this subpart shall be delivered within 30 days following the business discontinuance to the Regional regulatory administrator for the internal revenue region in which the business was operated: *Provided, however,* Where State law or local ordinance requires the delivery of records to other responsible authority, the Regional regulatory administrator may arrange for the delivery of the records required by this subpart to such authority.

Subpart I—Exemptions

§ 178.141 General.

The provisions of this part shall not

apply with respect to:

(a) The transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(b) The shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of Title 10, U.S.C., and the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(c) The shipment, unless otherwise prohibited by the Act or any other Federal law, by a licensed importer, licensed manufacturer, or licensed dealer to a member of the U.S. Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members of the U.S. Armed Forces, and such members or clubs may receive a firearm or ammunition determined by the Director to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club. Before making a shipment of firearms or ammunition under the provisions of this paragraph, a licensed importer, licensed manufacturer, or licensed dealer may submit a written request, in duplicate, to the Director for a determination by the Director whether such shipment would constitute a violation of the Act or any other Federal law, or whether the firearm or ammunition is considered by the Director to be generally recognized as particularly suitable for sporting purposes.

(d) The transportation, shipment, receipt, or importation of any antique firearm.

§ 178.142 Effect of Presidential pardon.

A pardon granted by the President of the United States regarding a conviction for a crime punishable by imprisonment for a term exceeding 1 year shall remove any disability which otherwise would be imposed by the provisions of this part in respect to that conviction.

§ 178.143 Relief from disabilities incurred by indictment.

A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding 1 year may, notwithstanding any other provision of the Act, continue operations pursuant to his existing license during the term of such indictment and until any conviction pursuant to the indictment becomes final: *Provided*, That if the term of the license expires during the period between the date of the indictment and the date the conviction thereunder becomes final, such importer, manufacturer, dealer, or collector must file a timely application for the renewal of his license in order to continue operations. Such application shall show that the applicant is under indictment for a crime punishable by imprisonment for a term exceeding 1 year.

§ 178.144 Relief from disabilities incurred by conviction.

(a) Any person may make application for relief from the disabilities under Federal law incurred by reason of a conviction of a crime punishable by imprisonment for a term exceeding 1 year if such conviction was not of a crime involving the use of a firearm or other weapon or a violation of the Act or the National Firearms Act.

(b) An application for such relief shall be addressed to the Director and shall include such supporting data as the applicant deems appropriate. In the case of a corporation, the supporting data should include information as to the absence of culpability in the offense of which the corporation was convicted, or, of any person having the power to direct or control the management of the corporation, if such be the fact. The application shall be filed, in triplicate, with the Regional regulatory administrator for the internal revenue region wherein the applicant resides.

(c) The Director may grant relief to an applicant if it is established to the satisfaction of the Director that the circumstances regarding the conviction, and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

(d) Whenever the Director grants relief to any person pursuant to this section, he shall promptly publish in the FEDERAL REGISTER notice of such action, together with the reasons therefor.

(e) A person who has been granted relief under this section shall be relieved of any disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of such conviction.

(f)(1) A licensee who is convicted of a crime punishable by imprisonment for a term exceeding 1 year during the term of a current license or while he has pending a license renewal application, and who qualifies under this section to file an application for removal of disabilities resulting from such conviction, shall not be barred from licensed operations for 30 days after the date upon which his conviction becomes final, and if he files his application for relief as provided by this section within such 30-day period, he may further continue licensed operations during the pendency of his application. A licensee who is not qualified under this section to file an application for relief or, if so qualified, does not file such application within 30 days from the date his conviction becomes final shall not continue licensed operations beyond 30 days from the date his conviction becomes final.

(2) In the event the term of a license of a person qualified to seek relief under this section expires during the 30-day period following the date upon which his conviction becomes final or during the pendency of his application for relief, he must file a timely application for renewal of his license in order to continue licensed operations. Such license application shall show that the applicant has been convicted of a crime punishable by imprisonment for a term exceeding 1 year.

(3) A licensee shall not continue licensed operations beyond 30 days following the date the Director issues notification that the licensee's application for removal of disabilities resulting from a conviction has been denied.

(4) When as provided in this section a licensee may no longer continue licensed operations, any application for renewal of license filed by the licensee during the term of his indictment or the pendency of his application for removal of disabilities resulting from such conviction, shall be denied by the Regional regulatory administrator.

§ 178.145 Research organizations.

The provisions of this part with respect to the sale or delivery of destructive devices, machine guns, short-barreled shotguns, and short-barreled rifles shall not apply to the sale or delivery of such devices and weapons to any research organization designated by the Director to receive same. A research organization desiring such designation shall submit a letter application, in duplicate, to the Director. Such application shall contain the name and address of the research organization, the names and addresses of the persons directing or controlling, directly or indirectly, the policies and

management of such organization, the nature and purpose of the research being conducted, a description of the devices and weapons to be received, and the identity of the person or persons from whom such devices and weapons are to be received.

§ 178.146 Deliveries by mail to certain persons.

The provisions of this part shall not be construed as prohibiting a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of title 18, U.S.C., is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duties.

§ 178.147 Repair of firearm.

A person not otherwise prohibited by Federal, State or local law may ship a firearm to a licensed importer, licensed manufacturer, or licensed dealer for the sole purpose of repair or customizing, and notwithstanding any other provision of this part, the licensed importer, licensed manufacturer, or licensed dealer may return in interstate or foreign commerce to that person the repaired firearm or a replacement firearm of the same kind and type.

§ 178.148 Ammunition loading for personal use.

The licensing provisions of this part shall not apply to any person who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.

Subpart J—Penalties, Seizures, and Forfeitures

§ 178.161 False statement or representation.

Any person who knowingly makes any false statement or representation with respect to any information required by the provisions of the Act or this part to be kept in the records of a person engaged in firearms or ammunition business, or in applying for any license, exemption, or relief from disability, under the provisions of the Act, shall be fined not more than $5,000 or imprisonment not more than 5 years, or both.

§ 178.162 Transportation or receipt to commit a crime.

Any person who ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce with intent to commit therewith an offense punishable by imprisonment for a term exceeding 1 year, or with knowledge and reasonable cause to believe that an offense punishable by imprisonment for a term exceeding 1 year is to be committed therewith, shall be fined not more than $10,000, or imprisoned not more than 10 years, or both.

§ 178.163 Commission of a Federal crime.

Any person who uses a firearm to commit any felony which may be prosecuted in a court of the United States, or carries a firearm unlawfully during the commission of any felony which may be prosecuted in a court of the United States, shall be sentenced to a term of imprisonment for not less than 1 year nor more than 10 years. In the case of a person's second or subsequent conviction under this section, such person shall be sentenced to a term of imprisonment for not less than 5 years nor more than 25 years, and notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.

§ 178.164 Receipt, etc., of firearms by certain persons.

Any person who (a) has been convicted of a felony, (b) has been discharged from the Armed Forces under dishonorable conditions, (c) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, (d) having been a citizen of the United States has renounced his citizenship, or (e) being an alien is illegally or unlawfully in the United States, who receives, possesses, or transports in commerce or affecting commerce, any firearm shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both: *Provided, however,* That the provisions of this section shall not apply to any prisoner who by reason of duties connected with law enforcement has expressly been entrusted with a firearm by competent authority of the prison, or to any person who has been pardoned by the President of the United States or the chief executive of a State and has expressly been authorized by the President or such chief executive, as the case may be, to receive, possess, or transport in commerce a firearm.

§ 178.165 Receipt, etc., of firearms by certain employees.

Any individual who to his knowledge and while being employed by any person who (a) has been convicted of a felony, (b) has been discharged from the Armed Forces under dishonorable conditions, (c) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, (d) having been a citizen of the United States has renounced his citizenship, or (e) being an alien is illegally or unlawfully in the United States, and who, in the course of such employment, receives, possesses, or transports in commerce or affecting commerce, any firearm shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both: *Provided, however,* That the provisions of this section shall not apply to an employee employed by a person who has been pardoned by the President of the United States or the chief executive of a State and has expressly been authorized by the President or such chief executive, as the case may be, to receive, possess, or transport in commerce a firearm.

§ 178.166 Seizure and forfeiture.

Any firearm or ammunition involved in, or used or intended to be used in, any violation of the provisions of the Act or of this part, or in violation of any other criminal law of the United States, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of the Act.

Subpart K—Exportation

§ 178.171 Exportation

Firearms and ammunition shall be exported in accordance with the applicable provisions of section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934) and regulations thereunder. However, licensed manufacturers, licensed importers, and licensed dealers exporting firearms and ammunition shall maintain records showing the manufacture or acquisition of the firearms and ammunition as required by this part and records showing the name and address of the foreign consignee of the firearms and ammunition and the date the firearms and ammunition were exported.

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